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

- **CANBERRA**: 1440 AM
- **SYDNEY**: 630 AM
- **NEWCASTLE**: 1458 AM
- **GOSFORD**: 98.1 FM
- **BRISBANE**: 936 AM
- **GOLD COAST**: 95.7 FM
- **MELBOURNE**: 1026 AM
- **ADELAIDE**: 972 AM
- **PERTH**: 585 AM
- **HOBART**: 747 AM
- **NORTHERN TASMANIA**: 92.5 FM
- **DARWIN**: 102.5 FM
FORTY-FIRST PARLIAMENT
FIRST SESSION—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
The Hon. John Winston Howard MP
Minister for Transport and Regional Services and
Deputy Prime Minister
The Hon. John Duncan Anderson MP
Treasurer
The Hon. Peter Howard Costello MP
Minister for Trade
The Hon. Mark Anthony James Vaile MP
Minister for Defence and Leader of the Govern-
ment in the Senate
Senator the Hon. Robert Murray Hill
Minister for Foreign Affairs
The Hon. Alexander John Gosse Downer MP
Minister for Health and Ageing and Leader of the
House
The Hon. Anthony John Abbott MP
Attorney-General
The Hon. Philip Maxwell Ruddock MP
Minister for Finance and Administration, Deputy
Leader of the Government in the Senate and
Vice-President of the Executive Council
Senator the Hon. Nicholas Hugh Minchin
Minister for Agriculture, Fisheries and Forestry
The Hon. Warren Errol Truss MP
Minister for Immigration and Multicultural and
Indigenous Affairs and Minister Assisting the
Prime Minister for Indigenous Affairs
Senator the Hon. Amanda Eloise Vanstone
Minister for Education, Science and Training
The Hon. Dr Brendan John Nelson MP
Minister for Family and Community Services and
Minister Assisting the Prime Minister for
Women’s Issues
Senator the Hon. Kay Christine Lesley Patterson
Minister for Industry, Tourism and Resources
The Hon. Ian Elgin Macfarlane MP
Minister for Employment and Workplace Rela-
tions and Minister Assisting the Prime Minister
for the Public Service
The Hon. Kevin James Andrews MP
Minister for Communications, Information Tech-
nology and the Arts
Senator the Hon. Helen Lloyd Coonan
Minister for the Environment and Heritage
Senator the Hon. Ian Gordon Campbell

(The above ministers constitute the cabinet)
Minister for Justice and Customs and Manager of Government Business in the Senate
Senator the Hon. Christopher Martin Ellison

Minister for Fisheries, Forestry and Conservation
Senator the Hon. Ian Douglas Macdonald

Minister for the Arts and Sport
Senator the Hon. Charles Roderick Kemp

Minister for Human Services
The Hon. Joseph Benedict Hockey MP

Minister for Citizenship and Multicultural Affairs and Deputy Leader of the House
The Hon. Peter John McGauran MP

Minister for Revenue and Assistant Treasurer
The Hon. Malcolm Thomas Brough MP

Special Minister of State
Senator the Hon. Eric Abetz

Minister for Vocational and Technical Education and Minister Assisting the Prime Minister
The Hon. Gary Douglas Hardgrave MP

Minister for Ageing
The Hon. Julie Isabel Bishop MP

Minister for Small Business and Tourism
The Hon. Frances Esther Bailey MP

Minister for Local Government, Territories and Roads
The Hon. James Eric Lloyd MP

Minister for Veterans' Affairs and Minister Assisting the Minister for Defence
The Hon. De-Anne Margaret Kelly MP

Minister for Workforce Participation
The Hon. Peter Craig Dutton MP

Parliamentary Secretary to the Minister for Finance and Administration
The Hon. Dr Sharman Nancy Stone MP

Parliamentary Secretary to the Minister for Industry, Tourism and Resources
The Hon. Warren George Entsch MP

Parliamentary Secretary to the Minister for Health and Ageing
The Hon. Christopher Maurice Pyne MP

Parliamentary Secretary to the Minister for Defence
The Hon. Teresa Gambaro MP

Parliamentary Secretary (Foreign Affairs and Trade)
The Hon. Bruce Fredrick Billson MP

Parliamentary Secretary to the Prime Minister
The Hon. Gary Roy Nairn MP

Parliamentary Secretary to the Treasurer
The Hon. Christopher John Pearce MP

Parliamentary Secretary to the Minister for Transport and Regional Services
The Hon. John Kenneth Cobb MP

Parliamentary Secretary to the Minister for the Environment and Heritage
The Hon. Gregory Andrew Hunt MP

Parliamentary Secretary (Children and Youth Affairs)
The Hon. Sussan Penelope Ley MP

Parliamentary Secretary to the Minister for Education, Science and Training
The Hon. Patrick Francis Farmer MP

Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry
Senator the Hon. Richard Mansell Colbeck
SHADOW MINISTRY

Leader of the Opposition
Deputy Leader of the Opposition and Shadow Minister for Education, Training, Science and Research
Leader of the Opposition in the Senate and Shadow Minister for Social Security
Deputy Leader of the Opposition in the Senate and Shadow Minister for Communications and Information Technology
Shadow Minister for Health and Manager of Opposition Business in the House
Shadow Treasurer
Shadow Minister for Industry, Infrastructure and Industrial Relations
Shadow Minister for Foreign Affairs and International Security
Shadow Minister for Defence and Homeland Security
Shadow Minister for Trade
Shadow Minister for Primary Industries, Resources and Tourism
Shadow Minister for Environment and Heritage and Deputy Manager of Opposition Business in the House
Shadow Minister for Public Administration and Open Government, Shadow Minister for Indigenous Affairs and Reconciliation and Shadow Minister for the Arts
Shadow Minister for Regional Development and Roads and Shadow Minister for Housing and Urban Development
Shadow Minister for Finance and Superannuation
Shadow Minister for Work, Family and Community, Shadow Minister for Youth and Early Childhood Education and Shadow Minister Assisting the Leader on the Status of Women
Shadow Minister for Employment and Workplace Participation and Shadow Minister for Corporate Governance and Responsibility

The Hon. Kim Christian Beazley MP
Jennifer Louise Macklin MP
Senator Christopher Vaughan Evans
Senator Stephen Michael Conroy
Julia Eileen Gillard MP
Wayne Maxwell Swan MP
Stephen Francis Smith MP
Kevin Michael Rudd MP
Robert Bruce McClelland MP
The Hon. Simon Findlay Crean MP
Martin John Ferguson MP
Anthony Norman Albanese MP
Senator Kim John Carr
Kelvin John Thomson MP
Senator the Hon. Nicholas John Sherry
Tanya Joan Plibersek MP
Senator Penelope Ying Yen Wong

(The above are shadow cabinet ministers)
SHADOW MINISTRY—continued

Shadow Minister for Immigration
Laurence Donald Thomas Ferguson MP

Shadow Minister for Agriculture and Fisheries
Gavan Michael O’Connor MP

Shadow Assistant Treasurer, Shadow Minister for Revenue and Shadow Minister for Banking and Financial Services
Joel Andrew Fitzgibbon MP

Shadow Attorney-General
Nicola Louise Roxon MP

Shadow Minister for Regional Services, Local Government and Territories
Senator Kerry Williams Kelso O’Brien

Shadow Minister for Manufacturing and Shadow Minister for Consumer Affairs
Senator Kate Alexandra Lundy

Shadow Minister for Defence Planning, Procurement and Personnel and Shadow Minister Assisting the Shadow Minister for Industrial Relations
The Hon. Archibald Ronald Bevis MP

Shadow Minister for Sport and Recreation
Alan Peter Griffin MP

Shadow Minister for Veterans’ Affairs
Senator Thomas Mark Bishop

Shadow Minister for Small Business
Tony Burke MP

Shadow Minister for Ageing, Disabilities and Carers
Senator Jan Elizabeth McLucas

Shadow Minister for Justice and Customs, Shadow Minister for Citizenship and Multicultural Affairs and Manager of Opposition Business in the Senate
Senator Joseph William Ludwig

Shadow Minister for Pacific Islands
Robert Charles Grant Sercombe MP

Shadow Parliamentary Secretary to the Leader of the Opposition
John Paul Murphy MP

Shadow Parliamentary Secretary for Defence
The Hon. Graham John Edwards MP

Shadow Parliamentary Secretary for Education
Kirsten Fiona Livermore MP

Shadow Parliamentary Secretary for Environment and Heritage
Jennie George MP

Shadow Parliamentary Secretary for Infrastructure
Bernard Fernando Ripoll MP

Shadow Parliamentary Secretary for Health
Ann Kathleen Corcoran MP

Shadow Parliamentary Secretary for Regional Development (House)
Catherine Fiona King MP

Shadow Parliamentary Secretary for Regional Development (Senate)
Senator Ursula Mary Stephens

Shadow Parliamentary Secretary for Northern Australia and Indigenous Affairs
The Hon. Warren Edward Snowdon MP
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The PRESIDENT (Senator the Hon. Paul Calvert) took the chair at 9.30 a.m. and read prayers.

BANKRUPTCY AND FAMILY LAW LEGISLATION AMENDMENT BILL 2005

Consideration of House of Representatives Message

Consideration resumed from 7 March.

House of Representatives message—
(1) Schedule 1, item 6A, page 4 (line 26) to page 5 (line 13), omit the item.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.31 a.m.)—I move:

That the committee agrees to the amendment made by the House of Representatives to the bill.

Senator LUDWIG (Queensland) (9.31 a.m.)—We moved an amendment to the Bankruptcy and Family Law Legislation Amendment Bill 2005 in this place. As a consequence, when the bill was sent to the House, they were then faced with the prospect of either agreeing to the bill as provided to them or, as in this case, amending the bill to effectively remove the amendment that we proposed here. In this case we are disappointed that the government did not take up the Senate’s amendment in the House, which was to impose a rebuttable presumption of insolvency where (a) the bankrupt has made a transfer of property while at the same time has an outstanding tax return or (b) the bankrupt has made a transfer of property and has failed to keep adequate books, accounts and records in accordance with their obligations.

Labor believe that our amendment would have made a real and positive contribution to the bill. In our view, which does not appear to be the government’s view, it is simply unacceptable that high-flyers can fund an extravagant lifestyle by avoiding their tax obligations, effectively living at the expense of ordinary taxpayers. The Attorney-General said in the House that Labor’s amendment would ‘go part of the way to resolving the issue’. We were comforted by that statement, but his actions failed to speak louder than his words. What he then did was, of course, not support even our amendment that might go part of the way.

Reform is part of the government’s discussion paper on this issue. It is worth repeating that, after all that has passed by us in the last three years or more, it is unacceptable that the government has only just reached this point of issuing yet another discussion paper on this topic. Labor will, as we have since 2000, watch the process carefully to ensure that the government does not botch it like it has in the past. In this instance we have also been particularly diligent in ensuring that the government does provide and come up with something at the end of the day. It has not, in our view, met all the issues that needed to be met, and our amendment would have gone some way to ensure that high-flying professionals were caught by the legislation.

We also call on the government to make this consultative process open and transparent. We know that they have not been open and frank in the consultative process in the past. That is not only disappointing in itself but also disappointing in its inability to provide some confidence in this area of bankruptcy reform. The consultative process is not a principal area, and one wonders why it cannot be an open and transparent process where submissions are provided and it is done in such a way to ensure those who have an interest can be heard.

The government, however, in Labor’s view should stop dragging its feet on bankruptcy reform. In relation to these issues on
bankruptcy reform—issues that I have spoken to in this house since at least 2001, and it is now 2005—it appears likely, and the minister can always confirm or deny this, that we will not see reform until the end of this year, which means that potentially we may not even see legislation until early 2006. In that instance it has been a significant amount of time, and there will have been at least four, perhaps five, tax return periods before some of these professionals, in their flagrant disregard of the law and the spirit of the law, have been reined in. For every day the government delays there is an opportunity for these people to avoid their tax and credit obligations.

Labor will, however, support the passage of the bill without our amendment, because the technical changes that are provided in this bill are in fact necessary. We have always said that and not resiled from it. It is not a case where we would hold up these important changes—although they do not go far enough—on the basis of not getting further and better change. The bill will address the competing rights of creditors and the non-bankrupt spouse. It will also provide a more effective means of collecting income contributions from bankrupts who do not receive their income as a salary or wage, and prevent the misuse of financial arrangements as a means of avoiding payment to creditors. Finally, it addresses longstanding issues concerning the interaction between family law and bankruptcy. The government has freely acknowledged and the opposition has confirmed that there is much more to be done in this area, and they are looking at ways in which those further issues can be dealt with.

In the debate last month I spoke about barristers and judges, in particular, and some disturbing statistics from the ATO and other sources concerning the way tax returns are dealt with and the way bankruptcy has been an issue of concern. On the day of the debate, the Australian newspaper had a front-page story on this issue. I was pleased, Minister—and I do not know whether you had anything to do with it—to read that a chief justice in one of the states had already made a statement to both the judiciary and the legal practitioners in the state expressing concern that his profession should be behaving in any way which indicates a failure to behave properly with respect to tax declarations, tax returns and their financial affairs in general. That is a pleasing precedent. I hope, Minister, that, with respect to the questions I asked you in the debate concerning that matter and which you said you would discuss with the Attorney-General’s Department, you will be able to make some remarks in your closing remarks on the motion.
Back in February when this bill was debated, we did support the Labor Party’s amendment to the bill. The amendment was a recommendation of the Law Council. We thought it a sensible amendment. It created a rebuttable presumption of insolvency if the alleged bankrupt makes a transfer of property and has either outstanding tax returns or failed to keep proper accounts. Unfortunately, the House has not agreed to that amendment but we do accept and acknowledge that the Attorney-General has released a discussion paper on possible further amendments to the bankruptcy law, including the option that was passed by the Senate, and that comments are due by 31 March. In line with the views of the opposition, we would hope that the turnaround once those comments are through will be rapid and that this matter can be dealt with later in the year. Since we support the main provisions of the bill and since the issue at hand is being considered by the government further, there is obviously no point in holding up the bill. The Democrats will not be insisting on the amendment.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.41 a.m.)—I thank senators for their contributions of the House of Representatives message on the Bankruptcy and Family Law Legislation Amendment Bill 2005. To remind those who are new to the debate, this bill addresses problems relating to the interaction of bankruptcy law and family law, and implements key recommendations of the joint task force report on the use of bankruptcy and family law schemes to avoid the payment of tax. There have been longstanding concerns about the uncertainty facing both bankruptcy trustees and non-bankrupt spouses when these two areas of law operate concurrently. I think it was agreed when this was last before the Senate that there were very good measures in this bill.

Today we are dealing with the message from the other place in relation to an amendment which was moved and passed in the Senate and which the House of Representatives has subsequently disagreed with. The opposition amendment which we are dealing with would have created two rebuttable presumptions of insolvency for the purposes of the clawback provisions in the Bankruptcy Act 1966. These presumptions would arise where a bankrupt had an outstanding tax return or returns and where a bankrupt had failed to keep adequate books, accounts and records when required by law to do so. It is, however, unlikely that these presumptions would be wholly effective as they would be quite easy to rebut and would not operate in circumstances where the bankrupt had transferred property shortly after lodging a tax return but then lodged no further returns and became insolvent.

Further, since parliament removed the taxation commissioner’s priority in bankruptcy in relation to unpaid pay-as-you-earn instalments, it has been the clear intent of parliament, which the tax office has accepted, that generally the tax office should be seen as a creditor similar to other creditors. This status of the commissioner as a normal creditor is no more evident than in the case of bankruptcy where, following any secured creditors, employee entitlements protection and other priorities out of the administration, the distribution received would be the same as for any other unsecured creditor. By creating a rebuttable presumption of insolvency where a debtor transfers property at a time when he or she has an outstanding tax return, the amendment would distinguish the tax office from other creditors in relation to bankruptcy and go some way to restoring the special position of the tax office in that context.

The opposition proposal is included in the suggestions canvassed in a discussion paper
which the Attorney-General released on 8 February 2005. That discussion paper will allow stakeholders to give their views on a comprehensive package of reforms needed to address the problem of high-income earners using bankruptcy to avoid paying debts that they can afford to pay. Senator Ludwig raised the question of when the response to the discussion paper could be implemented. I think the Attorney-General has stated that he would be looking to implement that this year. Senator Ludwig’s inquiry as to whether the end of the year is an achievable goal is therefore answered by the Attorney-General’s comments.

It would of course be preferable to allow this consultation to occur to ensure that the most effective package of amendments is developed. The opposition amendment had not been subject to any consultation, and the government believes that it was therefore premature. It is also important to note that, while the report by the House of Representatives Standing Committee on Legal and Constitutional Affairs on the withdrawn Bankruptcy Legislation Amendment (Anti-Avoidance and Other Measures) Amendment Bill 2004 acknowledged many suggestions from stakeholders, including those embodied in the opposition amendments, the committee did not recommend that those changes be implemented. The committee instead presented a bipartisan recommendation that there be fresh consultation on strengthening the existing clawback provisions of the Bankruptcy Act. Consultation in that regard has now commenced.

When debate was last conducted in the Senate on this bill, Senator Murray asked a question on 9 February 2005 about the effect of possible bankruptcy on maintaining constructive dialogue between the Australian Taxation Office and a taxpayer and whether bankruptcy would close down that dialogue and make bankruptcy inevitable. I am advised that the answer to Senator Murray’s question is that the tax office is prepared to continue dialogue and to attempt to negotiate repayment with taxpayers at any time prior to bankruptcy. However, once a person becomes bankrupt it is contrary to the Bankruptcy Act for the tax office—as with any other creditor—to make arrangements with the bankrupt for payment of that creditor’s debt. Accordingly, any dialogue between the tax office and the bankrupt will cease on bankruptcy. It should be noted that even if a creditor, such as the Australian tax office, receives payment shortly prior to bankruptcy the trustee may be able to recover that payment as a preference so that money can be available to creditors generally.

That deals with the outstanding question on notice that Senator Murray asked in the committee stage last time, although I think Senator Murray has raised another issue today. I understand from recent advice that the Attorney-General has spoken to all heads of federal jurisdictions—that is, chief justices and chief federal magistrates—in relation to the lodgment of tax returns by judges. Of course, senators would appreciate that the Attorney-General does not have jurisdiction in state and territory judiciaries and that it is a matter for the respective attorneys-general to raise with those states and territories. I might add that I think the debate that was conducted in the committee stage last time this bill was before the Senate and the questions asked by Senator Murray were indeed catalysts for some of the action that we have seen. By raising this issue, Senator Murray may be achieving his desired consequence.

These are important reforms and they need to come into effect as soon as possible, and I thank those senators who have indicated support for the bill. There is a discussion paper, and the government is intent that it be a full and comprehensive discussion and that it result in good law. For the reasons that
I have outlined, the government argues that the committee agree to the amendment made by the House of Representatives, and I believe that during the ensuing consultation period these and other issues can be canvassed. Certainly people will be cognisant of the issues that have been raised during the debate on this bill and, indeed, in the debate concerning this message. I commend the bill to the committee.

Question agreed to.

Resolution reported; report adopted.

NEW INTERNATIONAL TAX ARRANGEMENTS (MANAGED FUNDS AND OTHER MEASURES) BILL 2004

Second Reading

Debate resumed from 7 March, on motion by Senator Hill:

That this bill be now read a second time.

Senator SHERRY (Tasmania) (9.51 a.m.)—In the 2002-03 budget the Liberal government announced a range of reforms to Australia's international tax regime and reforms to international taxation. Those reforms had three broad aims: encouraging foreign investment in Australia, encouraging companies to set up regional headquarters in Australia and removing impediments to the competitiveness of Australian multinationals operating overseas. The New International Tax Arrangements (Managed Funds and Other Measures) Bill 2004 represents the final tranche of legislation implementing these reforms.

Schedule 1 deals with capital gains tax and foreign residents. Currently, foreign residents investing in Australian assets directly or through a foreign resident fund are given more favourable taxation treatment than foreign residents investing through Australian managed funds or fixed trusts. The tax law therefore discourages foreign residents from investing in assets through Australian managed funds, and this impedes the employment growth in the managed fund industry in Australia.

The amendments in this bill aim to more closely align the capital gains tax treatment of investments made by foreign residents directly, or through foreign managed funds, and investments made through Australian managed funds. Clearly, if a foreign resident disposes of an interest in an Australian managed fund, a capital gains tax event is triggered. This occurs even where the underlying assets of that fund are without the necessary connection to Australia to trigger a capital gains tax event if those assets were held directly. Foreigners are therefore penalised for investing in the assets through Australian managed funds, rather than investing directly in those assets. The changes will result in a capital gains tax event being triggered only if more than 10 per cent of underlying assets of an Australian managed fund has the necessary connection with Australia to trigger a capital gains tax event. This will provide closer alignment between the tax treatment of foreigners investing directly and foreigners investing through Australian managed funds.

In addition, capital gains or losses made by foreign residents due to the disposal of assets by an Australian fund will also be disregarded where the gain or loss relates to an asset without the necessary connection to Australia. This change will again ensure that foreign residents are not penalised for holding assets through Australian managed funds. A CGT exemption will also be provided where distributions of foreign source income are made from a fund to a foreign resident. This effectively allows foreign income to flow through an Australian managed fund to a foreign resident. This is appropriate as foreign residents investing directly in assets generating foreign source income are in general not subject to capital gains tax.
Schedule 2 deals with treaty source rules. Schedule 2 will ensure that foreign residents are taxed in the same way on foreign source income derived from foreign assets held through Australian managed funds as they are taxed on income from directly held foreign assets. These amendments effectively allow foreign income to flow through an Australian managed fund to a foreign investor without being subject to Australian tax. These amendments will improve the competitiveness of Australian managed funds in providing services to foreign investors.

Schedule 3 deals with interest withholding tax. Withholding tax is generally applied to interest payments made to overseas creditors. This effectively increases the cost of capital for Australian firms, which reduces their profits, investment and employment.

The bill contains three amendments to the imposition of interest withholding tax. The first amendment broadens the range of financial instruments eligible for IWT exemption by including debt interests. The second amendment complements the government’s decision to treat certain upper tier 2 capital instruments as debt interests for taxation purposes by ensuring that non-capital payments on such instruments are treated as interest for IWT purposes. The third amendment allows assets and debts to be transferred from Australian subsidiaries of foreign banks to their Australian branches without losing IWT exemptions.

The Australian Labor Party, which I am speaking on behalf of in this chamber today, is committed to the process of international tax reform. My colleague the shadow Assistant Treasurer in the other place, Mr Joel Fitzgibbon, in a recent speech to the Sydney Institute raised the issue of international tax arrangements acting as a barrier to attracting the best and the brightest minds and entrepreneurs to this country.

For the reasons that I have outlined, Labor will be supporting the international tax arrangements bill. We believe there are some other issues that need some examination. One important matter is the capital gains tax deemed disposal rule that applies to certain foreign citizens—presumably foreign residents—working in Australia. The rule means that, after a period of five years residing in Australia, if they become a nonresident they incur a capital gains tax liability, irrespective of whether they have disposed of specific foreign held assets. This does not appear to be good tax design.

The issue has been pursued through the UK and US double tax treaties. To date, the Liberal government has not done a great deal on the matter. It needs to have more attention paid to it. It impacts on the so-called brain drain from this country, and further action is needed to eliminate tax impediments to attracting the best people back to Australia or non-Australians into Australia. This is becoming a more critical issue due to our productivity performance. There has been a great deal of public debate about some disappointing economic news in recent times. The public debate has focused on some of the causal issues and possible solutions. Amongst those is the need for Australian industry to retain and attract the brightest and most knowledgeable persons who can contribute to restarting the growth of the Australian economy, which in the last quarter was almost zero.

More attention needs to be paid to the couple of matters that I have touched on by the current government as part of a much more comprehensive approach to restoring economic growth and to reducing our national debt and our current account debt. The national debt has reached record proportions and carries with it serious consequences. Having made those comments, I conclude by
saying that the Labor Party will be supporting the bill.

**Senator MURRAY** (Western Australia) (10.00 a.m.)—The New International Tax Arrangements (Managed Funds and Other Measures) Bill 2004 is the third tranche of legislation in response to the Board of Taxation’s review of international tax arrangements. These changes are designed to improve the ability of financial service providers to hold investments in Australia as their regional headquarters. For anyone who thinks tax reform is an easy matter—and I doubt there is anyone who thinks that—we should recognise that it is now at least three years since the initiative was first taken.

On 2 May 2002, obviously after some consideration of the issues, the Treasurer announced details of a review of international taxation concentrating on at least four principal areas: the dividend imputation system’s treatment of foreign source income, the foreign source income rules, the overall treatment of what is known as conduit income, and high-level aspects of double tax agreement policy and processes. A consultation paper resulted. Then, after extensive public consultation, the Board of Taxation reported to the Treasurer and the government responded—which was about a year later. A year after that, the first two tranches came into effect in time for the financial year 2004-05. These things take time not because the bureaucracy is a slow-moving kind of beast, although sometimes it is, but because of the complexity of the arrangements affected by such changes, the complexity of the entities and the need for consultation and for double-checking as to the effect.

The Australian Democrats have supported the previous bills and we intend to support this bill too. It has three schedules. The first two schedules ensure that foreign residents who invest in Australian unit trusts are treated the same as if they owned the investments directly. Schedule 1 to this bill would make changes to the tax treatment of foreign residents who make a capital gain or loss in respect of an interest in an Australian fixed trust. Schedule 2 to the bill includes amendments to the International Tax Agreements Act 1953, aligning the tax treatment of foreign residents investing through managed funds that derive some or all of their income from sources outside Australia with the tax treatment that would apply if those foreign residents made such investments directly.

The revenue impact is stated in the explanatory memorandum to be ‘unquantifiable but insignificant’ for the first two schedules and only $5 million per year for the third schedule. We should note that the effects of the bill are likely to be far greater than the financial impact on revenue. The explanatory memorandum to this bill correctly observes:

The reforms in this bill are aimed at removing tax impediments that discourage foreign residents from investing in Australian trusts, including managed funds. This is expected to make Australia’s managed funds industry more internationally competitive, enhancing the ability of Australian funds to attract foreign investment. If, as expected, this results in an increased flow of funds into Australian funds it will increase scale and efficiencies in the Australian managed funds industry. This will put downward pressure on the cost of managed fund services which will benefit all investors in Australian managed funds.

If you decipher that, what they are effectively saying is that tinkering with the law at relatively low cost to the revenue may in fact have very considerable multiplier effects and beneficial effects economically and in business terms. Those sorts of changes are obviously to be welcomed.

On 9 May 2003 Allesandra Fabro wrote in the Financial Review that business looked to this package of international tax reforms as steps that would ‘lower the cost of capital for
Australian multinationals and reduce the incentive for them to move offshore’. She also noted:

A number of surveys in recent years have decried Australia’s international tax regime as onerous and discouraging to offshore investment.

I have always thought that that threat of moving offshore is singularly overstated. I remember that at the time it was being whipped up in public debate and being repeated in here. Some time afterwards there was a survey as to how many businesses were relocating to Australia and establishing regional offices in Sydney—partly as a result, I might say, of the government’s rather good bills which encouraged Sydney to become a financial centre for our region. In fact, the reverse was happening. It was not what business was claiming—that people were going to go offshore. What was happening was that large numbers of businesses were coming onshore.

There is a salutary lesson in that for all of us who have to deal with these matters and that is that businesspeople are no different from other spruikers. If they are spruiking their particular campaign they are prone to exaggerating the points of their argument to try to encourage us to agree with them. You have to have not a cynical eye but sometimes a sceptical attitude to some of the claims they make. I feel the same way about the surveys that decry Australia’s international tax regime. In many respects we understate our competitiveness. That is not to say we should not continue to reform our law, and this is yet another step forward, which is to be welcomed.

While the Democrats support these particular initiatives and with the remarks that I have just made in mind, I want to say to the Senate that another campaign of which we should all be cautious is under way. The Democrats do not believe that Australia should participate in an illusory international race to the bottom in terms of international company tax rates. There are those who argue that in this country we should aim to be competitive with the very lowest company income tax rate in the world. From a self-interested point of view I can understand why they would say that. I have said before that we are not a party that believes in high taxation; we are a party that believes in high revenue, which is a different matter when you are referring to rates. We strongly supported reductions in company tax rates, from 36 per cent to the present 30 per cent, stepped over a number of years, because they were accompanied by base broadening, they simplified the system somewhat and delivered greater competitiveness. We see no reason at this point in Australia’s economic life to consider that company tax needs to move below the existing rate of 30 per cent, which of course is a nominal rate.

Despite the forecast $10 billion government surplus, which the newspapers were full of yesterday, our priority will always be to fund health, education, housing or infrastructure to satisfy the reasonable and legitimate needs that Australians have from their governments. It is likely that the Treasurer and the government will decide that if there is a surplus of that size they will dedicate it entirely to tax cuts. In our opinion the case has not been made that those tax cuts should be directed towards lowering the company tax rate. In our opinion it does not need to be reduced from 30 per cent at this stage, but we strongly support the view that there is a need for income tax cuts for low- and middle-income earners. In our opinion, if the government wants money to fund tax cuts for high-income earners, it can do it by simplifying the system and broadening the income tax bases. With respect to low-income earners, we think that certainty and equity in income taxation are vital. Certainty and equity
should be delivered by a three-part plan, phased in over a number of years in order to ensure affordability. We recognise, of course, that selecting any threshold is arbitrary, but if you are going to deliver certainty, equity and a more acceptable income tax regime you should have objectives in mind to be implemented on a stepped basis, as affordable. We would put the priorities in this order and with these objectives in mind: a $20,000 tax-free threshold, indexation to end bracket creep, and possibly a $120,000 top rate threshold, or something of that order. That would be a structural reform to the system.

At the very least, the income tax system needs to accept that it is entirely inappropriate to tax income below $12,500, which is the estimated minimum subsistence income. In the meantime, the priority is to keep addressing the needs of low-income workers, increasing their disposable income and living standards, reducing crippling high effective tax rates which operate for them and moving poorer Australians from welfare to work. The best single way to do this is by raising the tax-free threshold, which has the side benefit of flowing on to all Australian taxpayers, and in that way is seen as an equitable measure.

I make those remarks about individual income tax in the context of this bill because I think the debate in business is focusing far too heavily on company tax rates and far too little on the needs of individual taxpayers. In making those remarks with respect to company tax, I always remind people that we have to remember that it is an intermediate tax, because the dividends that are ultimately paid end up in the hands of the ultimate taxpayer, which of course is the individual. We have to look at their marginal and nominal tax rates and what that dividend will be categorised as finally in the hands of the share owner. To me, in the debate about what to do with surpluses, the intermediate taxes are less important than the final taxes. With those broad-ranging remarks, I indicate that the Democrats will be supporting the bill without amendment.
terests. Thirdly, it exempts Australian companies and their controlled foreign companies from capital gains tax for the sale of certain non-portfolio interests in foreign companies and extends the existing tax exemption for foreign non-portfolio dividends and certain branch profits. This will assist Australian companies operating offshore as well as regional headquarters operations based in Australia.

Fourthly, it proceeds with the previously announced foreign income account measure. Fifthly, it better targets the foreign investment fund rules to reduce compliance costs for Australian managed funds and superannuation entities investing offshore by increasing the balanced portfolio exemption from five per cent to 10 per cent for all taxpayers and exempting compliance superannuation funds from the FIF rules. Sixthly, it seeks to revise certain aspects of the cross-border taxation of resident trusts to improve the international competitiveness of Australian managed funds. It also seeks to proceed with the simplified treatment of foreign trusts and the tightening of the transferor trust rules, both previously announced. It also extends aspects of the separate entity treatment given to foreign bank permanent establishments to branches of other financial entities. Further, unfranked dividends received by foreign owned branches generally will be taxed on assessment instead of being subject to non-resident withholding tax. Finally, it addresses the double taxation of employee share options. A previously announced measure requiring security from departing residents for deferred CGT liabilities will not proceed. The legislation is now being introduced in tranches. The bill which we are considering today relates mainly to managed funds. This bill was preceded by bills concerning foreign investment fund rules, interest withholding tax, controlled foreign companies and a range of other matters, which were all designed to improve Australia’s business and investment competitiveness.

I would like to take this opportunity to outline some broader perspectives on the tax reform process—in particular, the process by which this bill and other legislation is being implemented as part of the government’s international tax reform package. The process by which the government has developed these bills has been exhaustive in its preparation and has been characterised above all by consultation. There have been public discussion papers, advisory boards, consultative groups, roundtable discussions, reports, government responses and publicly released draft legislation. Consultation is continuing on outstanding aspects of the international tax reform package. It is further evidence of this government’s determination to work with business to maximise Australia’s economic potential. Consultation is ongoing with the Permanent Establishments Working Group, Conduit Working Group, Foreign Investment Funds Working Group, Controlled Foreign Companies Working Group, the Tax Treaties Advisory Panel and the Foreign Trusts Working Group. This work goes on behind the scenes and attracts little of the public attention that some of the trench warfare style debate about other tax issues does, but it is certainly necessary.

International tax, although it does not get the same publicity, is still very important. The work done as part of consultation process is a great credit to our business community and the officials involved. It also reflects the trust and cooperation which has developed between this government and the business community. This is a government which works with business and listens to business. It does not always do what business wants, but it always consults and listens to their perspective. Where business has a reasonable point of view, it will act. This is in contrast to
the Labor Party. Labor, as I said in the Senate yesterday, has not had to control or run a tax system for about nine years now. But we can get an idea about how it will handle tax policy in future by taking a brief look back at the election. Firstly, Labor was evasive about when its tax policy would actually come out. On 5 September last year Mr McMullan was asked when Labor’s tax policy was going to come out. He replied, ‘Soon.’ Then, helpfully, he added, as though it was a great revelation, ‘It will be before the election.’ How thoroughly decent! Despite promising it months before, there was a concession that it would be released before the election.

Mr Crean was interviewed on Business Sunday on the same day last year. While talking about Labor’s economic management credentials, he said, in terms of Labor’s consultation with business: ‘We have been prepared to engage the business community. Myself, Bob McMullan and David Cox—how lucky can business be!—have all had exhaustive meetings over long periods of time with the business community to explain them.’ Mr Crean was then told by the journalist, ‘But they still don’t know what your tax policy is.’ Mr Crean replied, ‘We’ll be announcing that very soon and I think people will be very impressed with it.’ They were not. Labor’s tax policy has since been withdrawn, as have other large elements of their policy. Labor yet again are without a tax policy at this point in time.

Following the election Mr Swan commented on how things needed to change in Labor’s approach. On 31 October he said: ‘It is a great challenge. I am going to be knocking on a lot of doors over the next 12 months as we flesh out Labor’s new economic growth agenda. In fact, I think I will probably need a new fitness regime to cope with all of those boardroom lunches and dinners. I think it is going to be a bit of a chicken salad offensive, actually. I have to learn out there and we are going to take our time to flesh out our new economic growth agenda for this country.’ So a chicken salad offensive is at the heart of Labor’s new process of consultation. He added, ‘I and other members of the shadow cabinet will be moving around the boardrooms, the lunch rooms and the community to get their feedback so that we can put forward a fresh agenda for the future.’ So there is lots of moving, talking and listening, but will it produce any policy? I would not expect it any time soon.

Only yesterday Mr Beazley said that his approach will be to ‘hold them to account’. He said: ‘You subject them—the government—to questions and you put up, as the election approaches, a few decent alternatives. From the Labor Party’s point of view we are going to find much more focus on the sorts of questions that we ask.’ It sends a chill down my spine! That is much the same as what Mr Beazley said in July 2000. He said, ‘Well, accountability is critical for our parliamentary process, so you actually have a role to be carping. But, carping, yeah, there is a role for that, unfortunately.’ He then went on to say: ‘You have to present an alternative vision’—the same words as he used yesterday—’but only as you get closer to an election.’ Again, policy? No. It is a case of waiting, waiting, waiting. At the death knock, just before the election, if we are lucky we will get something from those opposite. We have seen this play book before and we know what to expect.

International tax is not a topic which enlivens the hearts and imaginations of the average Australian, but it is a vital issue which requires very careful consideration and ongoing monitoring to ensure that arrangements continue to operate as intended. Taxation can affect decisions about the location of foreign investment, as Senator Murray indicated. Australia is a great location to invest. In large part that is due to the government’s
strong economic management during the past nine years under the leadership of the Prime Minister and the Treasurer.

Senator Sherry—What has happened to economic growth in the last nine years?

Senator FIFIELD—This government has delivered strong growth. This government has delivered strong growth, budget surpluses, low interest rates and the lowest levels of unemployment in over 20 years. Those facts do not change despite the interjections opposite. Political and economic stability are important issues for determining investment, but we also need an international tax system which makes the most of Australia’s economic potential. Taxation can affect decisions about direct foreign investment, but it is a more significant factor for portfolio flows of capital. Taxation is likely to become increasingly important to decision making as world markets continue to integrate and liberalise.

The bill we are considering today relates particularly to managed funds. Managed funds are sensitive to tax on the income flowing to investors, and for this reason it is important to get Australia’s tax arrangements right. This bill focuses on making the Australian managed funds industry more attractive to foreign clients. Australia’s managed funds industry is robust, helped by a strong and stable economic performance, an educated work force, low-cost infrastructure, world-class regulatory systems and highly developed financial markets.

This bill makes changes in schedules 1 and 2 which are designed to reduce taxation impediments to the further growth of managed funds. These changes will allow Australian managed funds to become more internationally competitive, increasing their attractiveness to nonresidents. Under current capital gains tax arrangements, nonresidents investing in assets through an Australian managed fund may be taxed more heavily than if they invested directly in those assets or through a foreign fund. Measures in this bill will eliminate those distortions. Complementary measures will reduce the taxation on foreign-source conduit income earned by nonresidents by interposed Australian managed funds.

In schedule 3 the bill also amends interest withholding tax arrangements to bring them up to date with recent changes to the debt equity rules. These changes will ensure that the current IWT exemptions are consistent with the way that companies raise finance. The changes will also remove tax impediments to the restructuring of foreign bank operations in Australia from subsidiary to branch structure.

The CGT measures in schedule 1 of this bill apply to capital gains and losses made on or after the date on which the bill receives royal assent. The tax treaty measures in schedule 2 apply from the beginning of the year of income in which this bill receives royal assent. The IWT measures in schedule 3 apply to interest paid on debt interests issued on or after royal assent, to payments made on the relevant capital instruments issued on or after royal assent and to debentures or debt interests issued after 18 June 1993 which are transferred on or after royal assent.

As I noted previously, the business community has provided invaluable input to the preparation of this bill and we appreciate the contribution made by the business community in developing the international tax reform measures which are being progressively introduced. The bill again demonstrates that this government will listen to business and work with it to create a better environment for doing business. I commend the bill to the Senate.
Senator ABETZ (Tasmania—Special Minister of State) (10.26 a.m.)—I thank all senators, including those opposite and the Democrats, for their contribution to the debate on the New International Tax Arrangements (Managed Funds and Other Measures) Bill 2004. I also thank Senator Fifield for his contribution, but I must take issue with him on one very important point. I think this is very exciting legislation, and the measures in this bill are in fact another exciting instalment in the package of international tax reforms being rolled out by this government. Having said that and having listened closely to Senator Fifield’s speech, I think he has canvassed all the matters I was going to canvass in my summing-up speech, so there is no need for me to say anything further, other than to invite anybody who wants to find out what the government’s position on this bill is to read Senator Fifield’s excellent speech. 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.

MEDICAL INDEMNITY LEGISLATION AMENDMENT BILL 2005

First Reading

Bill received from the House of Representatives.

Senator ABETZ (Tasmania—Special Minister of State) (10.29 a.m.)—I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator ABETZ (Tasmania—Special Minister of State) (10.29 a.m.)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

MEDICAL INDEMNITY LEGISLATION AMENDMENT BILL 2005

This bill refines the legislation implementing the Government’s medical indemnity support system. This system provides doctors with increased access to affordable and secure insurance that can be maintained through retirement. It helps to stabilise the medical indemnity insurance market so insurers can continue to offer viable products into the future. Patients also benefit from the security offered to doctors and the medical indemnity insurance industry.

All of the measures in the medical indemnity package announced in December 2003 have been implemented. However, the Government has continued to work closely with doctors and insurers to improve their operation. This bill is the result of these ongoing consultations.

The bill amends the definition of when a medical indemnity insurer knows of a claim so that this is treated consistently. The definition of a claim is amended to ensure that costs incurred by insurers in managing future claims can be paid as intended. This change will mean that insurers can be sure of reimbursement by the Government for the costs of the retirement cover they are required to provide under ROCS.

Ongoing funding for the scheme is achieved through a payment by insurers called the Run-Off Cover Support Payment. Insurers have indicated that the current formulation of the payment makes administration of the support payment difficult. To address this concern the definition of insurers’ premium income will be changed so that it is considered net rather than inclusive of the Run-Off Cover Support Payment.

Doctors will also have the proportion of their premium payment that represents the insurers’ Run-Off Cover Support Payment clearly and consistently identified on their invoice. This change will make apparent to doctors the contribution their insurer is making toward the provision of their free retirement cover under ROCS.
Further, to help insurers more accurately predict the level of reinsurance they require the applicable threshold for a claim will be tied to when the incident was notified, not when a claim is paid. As in other medical indemnity schemes, a protocol for dealing with claim payments, costs associated with incidents notified and other matters has been introduced for the High Cost Claims Scheme. A regulation making power has also been introduced so that any further changes to the scheme’s payability rules can be made if required. This bill demonstrates the ongoing commitment of the Government to the medical indemnity industry, doctors and patients. The Government will continue to consult with insurers and doctors to ensure the effective operation of the medical indemnity industry insurance support system into the future.

Senator McLUCAS (Queensland) (10.29 a.m.)—The Medical Indemnity Legislation Amendment Bill 2005 amends legislation implemented to address the crisis facing the medical indemnity sector in 2002-03 and seeks to correct anomalies arising from the legislation’s interaction with industry practice. Labor will not oppose this bill. However, the amendments highlight once again the ad hoc nature in which the medical indemnity reforms have been conducted. There is little concern for the long-term sustainability of medical indemnity or for the financial support that the Commonwealth is continuing to provide.

These amendments are part of the government’s ongoing attempt to address medical indemnity ‘reform’ since the collapse of UMP/AMIL in 2002. I remind the Senate that the crisis arose in 2001 when Australia’s main medical defence organisation, UMP/AMIL, failed to fund $460 million of incurred but not reported claims. In December 2001, UMP increased its premiums by an average of 52 per cent. However, for obstetricians and neurosurgeons the increase was as high as 123 per cent. In February 2002, AMIL faced pressure from APRA to raise additional capital to meet minimum capital requirements, and APRA gave AMIL until 30 June 2002 to raise over $30 million to meet those requirements. The government intervened on 28 March 2002 and provided a short-term guarantee of up to $35 million to enable AMIL to meet its minimum capital requirements. In April 2002, UMP unsuccessfully sought further assistance from the government to enable its directors to get personal liability insurance. On 29 April 2002, UMP/AMIL filed for a provisional liquidator, which was appointed on 3 May that year. Its main objective was to determine the company’s solvency and ability to continue trading.

While the crisis unfolded the Prime Minister made a commitment to ensure that, in the event of a provisional liquidation, members were covered while a long-term solution was developed. On 29 April 2002, the Minister for Revenue and Assistant Treasurer announced that the government would guarantee claims arising from any procedures from 29 April to 30 June 2002 by doctors covered by UMP, would legislate this guarantee and would assist in determining the long-term viability of UMP. The AMA was dissatisfied with the government’s guarantees, and as a result the government faced closures of wards and the postponement of surgery as specialists sought greater certainty. Letters from both the Assistant Treasurer and the then minister for health and action by the Royal College of General Practitioners and the AMA then led to acceptance of this guarantee. The guarantee was finally approved by the courts in June 2002. This included approval of the extension of the guarantee from 30 June 2002 to 31 December of that year. In addition, the government also agreed to assume responsibility for the IBNR claims where the incident giving rise to the claim occurred before 30 June 2003.
To recoup these funds the government imposed a levy on members of medical defence organisations. The mechanics of the levy were strongly criticised by doctors, and in response the government announced a number of changes to the scheme which exempted doctors employed by public hospitals, all doctors aged over 65 and doctors who retired early due to disability or permanent injury. With the high cost of medical indemnity plaguing the sector, the government also implemented a medical indemnity premium subsidy scheme to subsidise premiums for obstetricians, procedural GPs, neurosurgeons and GP registrars undertaking procedural training. This was extended in 2004 to recognise indemnity costs relative to incomes.

In addition to the IBNR levy and the MIPSS, the government implemented the High Cost Claims Scheme to further reduce pressures on the medical defence organisations. Under this scheme, 50 per cent of insurance payouts over $500,000 are reimbursed to medical indemnity providers. In May 2004, measures related to run-off cover were also implemented to provide run-off insurance cover to medical practitioners who had retired or left practice due to disability or maternity leave and to the legal representatives of deceased medical practitioners. This filled the gap which arose when the government committed to ‘claims made’ cover only. In the event that a claim was made against a retired doctor, he or she would not be insured under the new arrangements. The amendments in this bill also relate to the Exceptional Claims Scheme, previously known as the blue sky scheme. This scheme applies when a doctor sustains a claim above $20 million—that is, a claim above an amount for which a doctor has insurance—and means that the Commonwealth will step in and pay the difference between the $20 million and whatever the claim is.

The former Labor government commissioned a report into medical indemnity issues, and the report from this inquiry, which was conducted by Ms Fiona Tito, has become referred to as the Tito report. When the Howard government came to office in 1996, the Tito report would have been sitting on the desk of the incoming Minister for Health and Family Services, Dr Michael Wooldridge. The Tito report explicitly warned of a potential crisis in medical indemnity unless the government acted and changed policy settings. Dr Wooldridge is now infamous for his inaction. At a conference at the University of Melbourne in 2003, Dr Wooldridge, who was minister for health for nearly six years after receiving this report, said:

... I was accused of doing far too little on medical indemnity. That’s completely unfair. I did absolutely nothing whatsoever.

Federal Labor believes that there needs to be a multipronged approach to ensuring there is a sustainable long-term resolution to the medical indemnity crisis. One of these elements, often taken for granted and even forgotten, is increasing the quality of care and avoiding, insofar as it is possible, adverse medical incidents. Medical treatments will never be perfect and will always be subject to the errors that all human beings make. However, in our hospitals in particular, the number of preventable deaths is relatively high and a number of those would be associated with events which would equal negligence. To the extent that those preventable deaths occur, we need to improve the quality of the environment.

Recent data, from 1999, shows that 16.6 per cent of the 14,000 hospital admissions in New South Wales and South Australia resulted in disability or longer hospital stays. These adverse events were due to ‘a wide range of human and system based failures’. Half of these adverse events were considered
preventable. Similar data from the UK and the USA shows that adverse events are at 10 per cent and 3.7 per cent respectively as a percentage of total admissions. A parallel is often made with the airline industry. If one applied the UK rate of the misprescribing of antibiotics for respiratory infection to an equivalent error rate in flying planes, there would be a 1,000-fold increase in the risk of dying in a plane crash.

The second policy area involves open disclosure. This requires changing the practice patterns of providers, such as hospitals or medical practitioners, so that they disclose errors. For parties who in the first instance might be seeking something as simple as an expression of regret or a factual statement about what has happened to their loved one, it enables that to occur and may reduce the risk of litigation.

The third area that requires further examination is the question of long-term care costs for the catastrophically injured. Currently, for those who are injured in medical negligence events, those costs are borne by the insurance system. Those who are injured in other circumstances end up with an inappropriate style of care; it is certainly not the sort of care that should be supported. An examination of better models of care for the catastrophically injured would provide medical indemnity insurers with greater long-term stability and would also improve the outcomes for people involved in these kinds of claims.

In February 2005, the AMA expressed its support for a long-term care scheme as an alternative to the current fault based adversarial system, which results in lump sum payments but often does not result in the best care for the catastrophically injured or the people who care for them. State governments control two of the most important levers in this debate. Firstly, state governments control the tort law environment and, secondly, they effectively indemnify doctors for their work in public hospitals. In recent years, state Labor governments have acted by making major reforms to the laws of negligence on civil and medical liability. Recent evidence suggests that these reforms are having a substantial impact on the number of claims against doctors for negligence. That is only one part of resolving the medical indemnity problem, however, and the Minister for Health and Ageing, Mr Abbott, has failed to effectively engage the state governments and work with them to develop options to resolve this issue.

Another important issue is the collection of data about medical negligence claims and the tort law experience in this new policy and legal environment. In Victoria, the Bracks government now has probably the most comprehensive set of data on medical indemnity claims of most, if not all, governments in Australia as a result of working with the Medical Indemnity Protection Society. This is exactly the type of database that the federal government needs to work towards establishing in cooperation with the state governments and medical defence organisations.

In November 2004, news stories confirmed that UMP had reduced its premiums. News of this caused outrage amongst other medical indemnity providers, who are subject to the same level of assistance which UMP have benefited from since its bailout. Some UMP members will enjoy premium reductions of up to 30 per cent next year. At least two other medical indemnity funds have written to the Prime Minister expressing their concern, quite rightly, over these events. This highlights the competitive neutrality issue which arises when the Commonwealth intervenes to the extent it has with UMP.
The Treasury is currently conducting a review of competitive neutrality in the medical indemnity sector. Some medical indemnity providers have expressed concerns about competitive neutrality in the medical indemnity market arising from the government’s assistance provided to the industry in recent years. The inquiry will examine the competitive advantages in the medical indemnity industry arising from measures undertaken by the Australian government specifically to assist medical indemnity providers since 29 April 2002. I understand that it will analyse each form of government assistance and their interactions in assessing implications for competitive neutrality in the medical indemnity market and any resulting competitive advantages, including, but not limited to, such possible advantages as savings on reinsurance or capital servicing costs.

Labor believes it is crucial that, in determining the competitive neutrality issues arising from the government’s assistance, policy responses should be developed to address any identified competitive advantage. In addition, the overall policy should aim to deliver—as well as the identified policy aims of ensuring a viable, affordable, fair and competitive medical indemnity market—sustainability for the medical indemnity sector and the taxpayer, as well as fair and transparent outcomes for consumers. Labor looks forward to examining closely the outcomes of the report, which is due by 15 March.

As I said earlier, Labor will not oppose this bill. But I have laid out that chronology and Labor’s concerns, which have been well made and well expressed over some three years now, especially by our shadow ministers, since the crisis began a long time ago and came to a head in April 2002.

Senator RIDGEWAY (New South Wales) (10.43 a.m.)—I also rise to speak to the Medical Indemnity Legislation Amendment Bill 2005. This is one of many such bills that we have dealt with over, as I recall, the last three to four years. It essentially deals with amending several of the medical indemnity acts to ensure that the Run-off Cover Scheme operates according to the government’s original intention and it addresses concerns raised by the insurance industry and the medical profession. The changes enacted by the bill are relatively minor, technical and uncontroversial, making only small changes to the operational nature of the current medical indemnity scheme.

The legislation is the 12th in a series of bills to put in place arrangements to address the medical indemnity crisis. The Senate, I believe, has been more than accommodating, especially in recent years, to ensure that the situation is brought under control. The Australian Democrats have supported previous bills in order to ensure adequate medical indemnity cover and a capacity for medical services to be provided, especially in the public health system. These changes in themselves are not what I would regard as problems.

The Democrats support comprehensive professional indemnity insurance to ensure that consumers have access to relief in cases of malpractice. I want to, however, take the opportunity to speak about a group of people in our nation—and I have raised this on many occasions—who provide an essential function within the health system and who do not get similar urgent treatment or concern, either from the government or from the insurance industry. In this particular case, I am talking about midwives.

We are not saying that the government should not care about making sure we have a viable medical profession in this country. What we are saying is that it is beyond time for there to be direct government interven-
The background to this is that childbirth—and this is especially important following International Women’s Day—has significant social implications for individuals, families and the community. In most cases, this is a normal physiological event. Maternity care is unique within the spectrum of essential health care services provided to all Australian communities as a woman’s pregnancy, a child’s birth and the nurture of a newborn are not usually related to illness. There are only a minority of women and/or babies that require medical services.

As I have said on previous occasions, according to the World Health Organisation the most appropriate primary care providers of maternity care are midwives acting on their own professional authority. This is reflected by maternity service arrangements in the United Kingdom, the Netherlands, New Zealand and Canada, for example. In Australia, public funding for basic maternity care is only provided for doctors and hospital based care. This creates an anticompetitive environment, protected by Medicare and the health funding agreements between the federal and state governments, which excludes midwives from providing their expertise to pregnant women, particularly during pregnancy.

I believe that the current monopoly enjoyed by the medical profession as the primary provider of maternity care should be dismantled in the public interest. The exclusion of midwives from primary care is not beneficial for childbearing women. The Democrats support equitable access for all women to the basic maternity care of their choice and equal pay or reimbursement for equal work for doctors and midwives when providing basic maternity care.

Midwives in Australia are educated to provide holistic care from early pregnancy to several weeks after birth for well women. They are also trained to detect abnormalities and to refer women for specialist opinion or treatment. Midwifery skills are underutilised in the current health system. Reform of maternity services to enable midwives to act in a primary care role would have a positive impact in all communities and assist in relieving pressure on medical services. Midwives are specialists in healthy pregnancy and birth, which is experienced by about 80 per cent of women. Approximately 250,000 women per year in Australia require basic maternity care. Of these, it is anticipated that about 20 per cent may require some level of medical care, while all require midwifery care.

This parliament has dealt with several bills in recent years to put in place the government’s arrangements to provide subsidies to certain sectors of the medical profession that are seeking medical indemnity cover. However, the government’s response still excludes medical professionals, especially midwives and others within the medical sector, that are not covered by medical defence organisations but which are vital to the health system.

I have been very concerned about the question of midwives needing to get some sort of cover or at least support from gov-
ernment so that they can practise in this country. Of the 250,000 births in this country, it ought not be lost on us that 98 per cent are attended by midwives. Rarely do you see the doctor, the obstetrician or the gynaecologist come into it unless there is a need for medical intervention. It has already been shown that midwives are often the better option for the periods before, during and after the birth of any child. Birth is much more than what happens at one single point: there is the whole process of before, during and after, and midwives are the people who can best deal with that. That is one of the benefits that a good public health system should provide. Over the last two years, though, when the issue has been raised the government has not been able to come to the party and some 12½ thousand midwives in this country, particularly those who are independent and those who work on contract, have been put out of work.

I spoke recently with the Australian College of Midwives. They have informed me that they have received advice from Treasury stating that there is no reason why midwives could not get cover from medical defence organisations. You have to ask: why doesn’t this happen? Why aren’t medical defence organisations opening up their doors and providing the right cover and adequate cover for midwives? One of the reasons is that the midwives are regarded as being a small group. They do not have the clout of an entire nation full of GPs, to whom the government listens whenever they open their mouths.

The second is that the medical defence organisations are run by doctors. This should not be lost on us: MDOs are run by doctors, so of course they are not going to agree to provide cover to their direct competitors—as they see them—if they do not have to. They are running a closed shop for obstetric care and do not want to see their monopoly affected. They do not want to accept competition from non-doctors by legitimising them through the insurance system. But the fact is that people choose midwives. That is what is happening in this country, and these midwives have to practise illegally. Thanks to the professional indemnity legislation that has been passed in most states, midwives—who are willing but unable to purchase cover—have had to conduct their businesses in contravention of these laws.

For example, my home state of New South Wales has the Health Care Liability Act, in line with the recommendation of the Ipp review that there be legislation in states to protect consumers by requiring that all professionals have indemnity insurance. That legislation was introduced in New South Wales in 2001, and since then midwives have been operating illegally. Nurses and midwives organisations have turned a blind eye so that their services can continue, but it really is an unacceptable situation that here we are, some four years down the track, and we still have not resolved this question. It seems to me that virtually all of the states, except South Australia, have introduced similar legislation. The legislation is supposed to be a consumer protection measure, but consumers of midwifery services have no protection.

There was an interesting article in the Adelaide Advertiser on Monday referring to this problem. Women in South Australia are having home births without insurance cover because independent midwives still cannot get liability insurance coverage. Justine Caines, the National President of the Maternity Coalition, is quoted as saying, ‘We think it is outrageous midwives have not been given the same professional respect’ as GPs and obstetricians. A spokeswoman for the federal government is quoted as saying that the government were ‘not aware’ that independent midwives were working without...
indemnity cover in South Australia. This is not the case. They have been made aware of this situation by me and others in this place on many occasions. I do not believe that the government can plead ignorance any longer. Leadership is required to resolve this issue.

It is time for the federal government to act. It is not enough for the government to say that they are not insurers. Firstly, that is plainly untrue. Under the medical indemnity schemes we have enacted, where a doctor’s gross medical indemnity costs exceed 7½ per cent of his or her gross private medical income, he or she will only be required to pay 20c in the dollar for the cost of the premium beyond the threshold limit. The government underwrite the entire medical indemnity insurance scheme. However, this is for doctors only, and not for others and certainly not for midwives. The midwives lobby has been told the federal government are not insurers, which we see is absolute rubbish when we look at how the scheme operates. They are, but only for those they choose, such as doctors. Secondly, even if that were the case, it is not relevant. Government have to recognise the vital contribution made by midwives in our health system and take direct action to ensure that they are protected.

Health minister Tony Abbott has advised midwives representatives that if they can find a policy then he would talk with them. Doctors always had insurance cover—the problem was that premiums became prohibitively costly. So the doctors got looked after and the midwives did not. The health minister seems to think that if an insurance policy were available on the market for midwives he would be as strong an advocate for midwives as he has been for doctors? I would like to see that, and I encourage him to go down that path. He should, because midwives provide an essential service in our community. Their expertise, qualifications and professional status should be endorsed at the federal level. It is certainly not the case that they have a poor record with negligence cases. In fact, exactly the opposite is true. Midwives have a great record, probably better than that of obstetricians. Most obstetricians in the country have a claim pending.

There is a role for federal government in this matter, despite the health minister’s attempts to avoid his responsibilities. There is a gap in the market, and the government exist to ensure that such gaps are addressed, in the interests of the entire community, not just one sector. It is time for the government to break free of the shackles of servitude, as I call it, they are kept in by the medical profession. Things do not have to be the way they are just because the doctors say so. Doctors ought to be forced, through the MDOs, to open the door.

Social commentator Anthony P Franklin once said that a measure of our society is the degree to which we fight for the freedom to choose for all our citizens. This government has always made a big deal of ‘choice’, saying that it does not want to prescribe options for people, especially in relation to which GP

use his influence within the insurance community and with medical defence organisations to effect real change in this situation.

MDOs are covering GPs for exactly the same services that are provided by midwives, especially GPs in rural areas of this country. There is no reason why MDOs could not expand their services to cover midwives. Is Minister Tony Abbott really suggesting that if an insurance policy were available on the market for midwives he would be as strong an advocate for midwives as he has been for doctors? I would like to see that, and I encourage him to go down that path. He should, because midwives provide an essential service in our community. Their expertise, qualifications and professional status should be endorsed at the federal level. It is certainly not the case that they have a poor record with negligence cases. In fact, exactly the opposite is true. Midwives have a great record, probably better than that of obstetricians. Most obstetricians in the country have a claim pending.

There is a role for federal government in this matter, despite the health minister’s attempts to avoid his responsibilities. There is a gap in the market, and the government exist to ensure that such gaps are addressed, in the interests of the entire community, not just one sector. It is time for the government to break free of the shackles of servitude, as I call it, they are kept in by the medical profession. Things do not have to be the way they are just because the doctors say so. Doctors ought to be forced, through the MDOs, to open the door.

Social commentator Anthony P Franklin once said that a measure of our society is the degree to which we fight for the freedom to choose for all our citizens. This government has always made a big deal of ‘choice’, saying that it does not want to prescribe options for people, especially in relation to which GP
they choose to go to. It is time for it to put its money where its mouth is. Why should people be forced to have obstetricians attend their births, when they would prefer the assistance of a midwife? That has traditionally been the case, since before the sixties. Why shouldn’t midwives also be protected? It is time for this government to take up the fight about real choice for all citizens in our health system.

I understand that the government is planning to set up a working party to review the whole of the new medical indemnity arrangements in the middle of 2005. I can only hope that these urgent matters are considered as part of that review. But I go further: I think we need to deal with this now and not wait until the middle of the year, because there are people out there and we want to make sure that they have adequate cover. It is not just about independent and contract midwives but also about those studying midwifery at various educational institutions and making sure that they have adequate cover when it comes to clinical placement. We need to make sure that they are dealt with appropriately. To that end, on behalf of the Australian Democrats, I move:

At the end of the motion, add “but the Senate:

(a) notes that:

(i) midwives are still the only group of professionals that are prevented from working as they were trained and registered, and

(ii) the Commonwealth promoted legislation to the States that required all health professionals to hold professional indemnity insurance (as a consumer safety mechanism), while at the same time refusing to assist one group of health professionals, thereby denying safety to a group of consumers; and

(b) calls on the Government to:

(i) recognise that midwives provide exactly the same service as general practitioners and obstetricians in normal circumstances,

(ii) use their influence within the insurance industry and with medical defence organisations to ensure the development of a comprehensive professional indemnity insurance policy to cover midwives, and

(iii) refer the matter of competition in obstetrical services to the Australian Competition and Consumer Commission for urgent review”.

Senator BARNETT (Tasmania) (10.59 a.m.)—I stand in support of the Medical Indemnity Legislation Amendment Bill 2005, which refines the legislation implementing the government’s medical indemnity support system. I acknowledge the comments from the other side, from Senator McLucas on behalf of Labor, indicating their support for the bill. That is appreciated. I want to make a few comments with regard to the bill specifically and a few comments with regard to medical indemnity issues more generally, and I will also give a little historical chronology as to why we are here today.

As a thrust and as a policy position, this bill underlines and provides a foundation of confidence for people in the medical industry, specifically GPs, medical specialists and other key stakeholder groups such as the insurance industry and medical indemnity insurers, and the patients—of course, they are a key stakeholder group that will be protected, supported and encouraged as a result of this bill. This bill is more technical than the previous legislation on this issue and has specific provisions relating to the substantive bills that were introduced and passed in 2002 and 2003, and in his speech Senator Ridgeway referred to that package of medical indemnity legislation.
At the start, I want to acknowledge the leadership shown and demonstrated by Senator the Hon. Helen Coonan, who was at the time the Assistant Treasurer and had carriage, in large part, for the medical indemnity legislation, together with Tony Abbott and, before Tony Abbott, Senator the Hon. Kay Patterson. They took a very good strategy of cooperation and worked together with the key stakeholder groups to get a solution. We were pretty much facing a crisis in this area. There were a lot of problems, and I know that perhaps people outside this place and some on the other side of this place were saying, 'This is great!' putting the government on the back foot. But I will tell you what the ministers did: they showed leadership and vision, and they showed that they wanted to have this problem fixed. Over a long period of time, through a lot of hard work, Ministers Coonan and Abbott in particular got their heads together and worked with those key stakeholder groups—the insurance industry, the doctors and those representing the patients—and provided solutions.

Just in the last 24 hours or so, I have spoken to the head of the Australian Divisions of General Practice, Dr Rob Walters, and he indicated that he has appreciated the cooperative approach of the Australian government and those two ministers in particular for the way in which they have addressed these issues. He indicated that of course there are issues still to be addressed, and that is why that ongoing working relationship is so important. Kate Carnell is now the executive director of the Australian Divisions of General Practice. I congratulate her on her appointment and look forward to working with her in the months and years ahead. Alan Mason from the Insurance Council of Australia has shown leadership on behalf of his industry. I met with Alan on a number of occasions last year and the year before, and again I acknowledge and thank the Insurance Council for their support.

Historically, we remember that we were facing a crisis in 2002 and 2003. The government passed legislation in response to the medical indemnity problems that emerged pretty much early in 2002, when I started in the Senate in February 2002. What happened was that UMP—United Medical Protection—which was the medical defence organisation and Australia’s biggest medical indemnity insurer, applied to be put into provisional liquidation in April 2002. That was obviously devastating for the industry, and it was not until 10 November 2003 that UMP came out of provisional liquidation. In my own home state of Tasmania, the Medical Protection Society of Tasmania certainly had cause for concern and, in particular, with regard to their meeting prudential requirements. The industry had not provisioned properly for future claims and was structured in such a way as to avoid prudential supervision, and this was particularly so for UMP, which had significant exposure and, sadly, was badly affected by the failure of HIH in particular.

Another reason for the crisis that we faced was the international increase in the costs of reinsurance. If we remember, this was not just medical indemnity; it covered professional indemnity insurance and public liability insurance. And, of course, we are aware of the remedial action that was taken by the Australian government; it played a great leadership role. Some of the states came on board—some of them came on board kicking and screaming—and we have now seen the fruit of that labour certainly in the form of public liability insurance premiums going down, which was announced by Minister Mal Brough just a week or so ago. Premiums trending down is good news. There was also a sustained increase that was backed up by evidence in the costs of claims against the
doctors. You can see that, historically, we were facing very serious problems in the provision of health care to the average Australian mum and dad and child. So that legislation was passed in 2002 and 2003, but a lot of work was done and a lot of working groups were set up to make sure that we could address the problems.

I want to touch on some of the key elements of the government’s response in addressing those problems before I go to the specifics of the bill. The first is the incurred but not reported indemnity contribution scheme, where our government agreed to take over unfunded liabilities across the medical indemnity sector for claims that had not yet been lodged. That is what is known as the IBNR claims. The government has recouped the cost of the IBNR scheme from members of the medical defence organisations with unfunded liabilities. This approach was consistent with assistance packages in other industries outside the health sector. Following the recommendations—this was referred to in debate this morning—of the medical indemnity review panel, the UMP support payments have now been replaced by the IBNR contribution scheme. The actual payment is no more than the original IBNR contribution and in most cases will be less. It is now generally to be collected through medical indemnity insurance. The IBNR moratorium arrangements were implemented through legislation in 2003.

Another key element of the government’s response was the High Cost Claims Scheme. In this case the government was to meet half the cost of the settlements or judgments in excess of $300,000 up to the Exceptional Claims Scheme threshold, or ECS as it is known, which was the third key element. In this case the government meets the full cost of the settlements or judgments in excess of the ECS threshold.

Under the Run-off Cover Scheme, which is the fourth key element of the overall response by the government, the government will cover the costs of the medical indemnity claims for eligible doctors who have retired from private practice. Those doctors will not need to pay for that run-off cover. This was a particular issue in Tasmania and in Launceston—my hometown—for a number of the doctors who were practising and moving into retirement age. They were saying, ‘I have to keep working to make sure the premiums are covered. If I leave my practice how will I afford the run-off cover and the premiums to make sure I am covered into the future in my retirement?’ Those issues were addressed and I know some of the GPs concerned, and those concerns have been alleviated. That is good news.

The medical defence organisations in Tasmania and around the country are now under prudential supervision which is far more carefully regulated. They are reviewed and regulated by the Australian Prudential Regulation Authority, APRA. They are required to offer contracts of insurance through their insurer rather than discretionary cover to member doctors. That is how it works.

As part of the overall package of legislation and response from the Australian government there has also been tort law reform. I mentioned earlier public liability insurance and professional indemnity insurance. There has been a package of reforms to address the problems—and the crisis, in fact—we are facing. For example, community groups, small businesses and volunteer organisations who wanted to have a festival could not do so because they could not cover their volunteers involved in those activities in terms of public liability insurance. It was a very significant problem. I hosted and was involved in seven separate workshops and forums for small business and community groups in my home state of Tasmania to look at the public
liability insurance issue and to see if we could come up with some suggestions and recommendations for reform. In March 2002 a working group of small business groups, the Small Business Council and community groups, including Volunteering Tasmania, did exactly that—we sat around the table and came up with 22 recommendations for reform. Some of them were relevant to the Australian government, most were relevant to the state government and some were relevant to local government.

Interestingly, in terms of the state and territory governments around this country, New South Wales essentially led the way, and I compliment the New South Wales government in that regard. Sadly, Tasmania came pretty well last in terms of the state government responding to the public liability insurance dilemma-crisis that was facing small businesses, community groups, volunteer organisations and the community in general. It is pleasing to have those recommendations implemented by the Tasmanian government but also sad to know that it took nearly two years to have those recommendations implemented. As I said, there were 22 recommendations for reform in March 2002. They are pretty much nearly all implemented now by the Australian government and the state and territory governments. These recommendations were made by a working group of small business groups and community organisations. That is on the record. They know the history. The state government in Tasmania simply did not pull their weight. They did not adequately follow the lead of the Australian government or indeed of the New South Wales government. The Tasmanian public sadly paid the price. They are now coming on board and have taken up the important role they need to fulfil. There is still more to do but we are pleased that some of those strategies and reform actions have now been implemented.

I want to touch on some of the specifics of the bill. Firstly, I have a matter to draw to the attention of the Senate. We had a Senate Scrutiny of Bills Committee meeting this morning. I have drawn this matter to the attention of the department: in the commencement provisions of the bill there is a typo—

Senator George Campbell—Madam Acting Deputy President, on a point of order: I am not so sure that what Senator Barnett is about to do is consistent with the standing orders. The Scrutiny of Bills Committee, having met this morning, has not yet presented its report to the chamber. I do not think it is appropriate to discuss what is in that report until it has been presented here.

The ACTING DEPUTY PRESIDENT (Senator Kirk)—Senator Barnett, unreported proceedings of committees should not be disclosed in the chamber prior to their being tabled.

Senator Barnett—Thank you, Madam Acting Deputy President. That is noted. It is an administrative matter and one which will no doubt be discussed later on. It is a technical, administrative matter which does not impede the progress of the bill or this process in any way.

I will proceed with the specifics of the legislation. I note that the system that has been set up, which refines the previous legislation from 2002 and 2003, ensures that doctors are provided with increased access to affordable and secure insurance that can be maintained through retirement. I have mentioned the benefits for those Tasmanian doctors and indeed for GPs throughout the country. The ongoing funding for the scheme is achieved through a payment by insurers called the run-off cover support payment. I have mentioned that earlier in my comments. To address concerns, the definition of insurers’ premium income will be changed so that
it is considered net rather than inclusive of the run-off cover payment.

We are adding three measures to the original measures of this bill. Firstly, the government are continuing to enhance this package of measures by extending financial protection to doctors for the cost of claims beyond the level of their indemnity insurance. That is the Exceptional Claims Scheme, which I have mentioned. Secondly, there is an increase in the number of categories of doctors who are eligible to be exempt from the contribution for incurred but not reported liabilities. Thirdly, there is a measure to put a moratorium on the amount payable on the IBNR contribution for 18 months.

The other thing that I think is worth noting is that, for the IBNR scheme, this amendment is a very good one because it makes the package of legislation more consistent. It relates to the IBNR and the high-cost claims schemes, which use the term ‘awareness’ to define when an insurer knows of an incident or claim, while the run-off cover and the exceptional circumstances schemes use the more narrow concept of ‘claims being made’ or incidents ‘notified’. So this makes the legislation more consistent. The key stakeholder groups—the GPs and the insurers—know exactly where they stand.

That inconsistency can lead to difficulty in administering the respective schemes, so the government is proposing a more defined concept of claims made and incidents notified that can be consistently applied across all of those schemes. I think that is a good move and I think it is good legislation. It builds on a foundation of confidence that the government has created as a result of, and flowing from, the difficult times that we had in 2002 and 2003 with the crisis and problems facing the health sector. I support the bill.
ine whether or not UMP has derived an unfair competitive advantage from the government’s policies. Mr Rogers is expected to report to the government in the middle of this month.

There are two additional points I would like to make. First, the impending collapse of UMP in April 2002 left the government with no alternative except to act to rescue the company. I remember this quite clearly. If we had not acted, 30,000 doctors across the Eastern States, particularly in New South Wales and Queensland, would have been left uninsured, and they indicated they would stop work. Medical services would have ground to a standstill, and our estimation was that patients’ lives would have been in danger.

Second, while United Medical Protection has returned to profitability very quickly, that was not forecast by any of the expert witnesses who gave evidence in the New South Wales Supreme Court in late 2003, when the company was applying to be discharged from provisional liquidation. The concern at that point was whether the company would be viable—not that it would be making such large profits—and whether it would be able to reduce premiums unfairly. Let me assure the Senate that, if Mr Rogers concludes that government policy has led to an unfair advantage, the government will take appropriate action to rectify the situation.

Senator McLucas raised the issue of data and data collection. In relation to medical indemnity data collection, the Australian Institute of Health and Welfare is working with state governments and the insurance industry to collect and publish comprehensive data across the industry. The first report on public sector claims was published early this year, and the first report on the sector as a whole should be published early next year.

A second reading amendment was moved by Senator Ridgeway on behalf of the Australian Democrats with regard to midwives. The government is aware that independent midwives have experienced difficulties with purchasing professional indemnity insurance from commercial insurers. We agree that it is vital for birthing options for women to be broad and underpinned by quality of care. The Australian government has been working together with the states and territories on improving the affordability and availability of professional indemnity and public liability insurance. I understand that the Western Australian, Northern Territory and ACT governments have extended insurance coverage to independent midwives by effectively bringing them under the umbrella of government employment, and I would urge other governments to do the same.

I should add that the government’s policy is directed at supporting existing insurance arrangements; it is not about providing insurance directly to any group. We do not believe there is a case for setting ourselves up as an insurer to cover midwives or any other group. As I said, we call on the other states to follow the lead of the Western Australian, Northern Territory and Australian Capital Territory governments in assisting our midwives. I commend the bill to the Senate, and I thank honourable senators for their contribution.

Senator McLucas (Queensland) (11.24 a.m.)—by leave—I advise the Senate that Labor will be supporting the second reading amendment moved by Senator Ridgeway. It is an important issue. The question of medical indemnity should not be overlooked. The government talks a lot about choice and equity. If we are truly going to give women the choice of having the preferred support person with them during their delivery, the government will act on this motion and certainly ensure that indemnity can be provided for
midwives. Labor will support the amendment.

Question agreed to.

Original question, as amended, agreed to.

Bill read a second time.

**Third Reading**

Bill passed through remaining stages without amendment or debate.

**FARM HOUSEHOLD SUPPORT AMENDMENT BILL 2005**

**First Reading**

Bill received from the House of Representatives.

**Senator PATTERSON** (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) (11.26 a.m.)—I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

**Second Reading**

**Senator PATTERSON** (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) (11.26 a.m.)—I move:

That this bill be now read a second time.

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

Leave granted.

*The speech read as follows—*

**FARM HOUSEHOLD SUPPORT AMENDMENT BILL 2005**

**Introduction**

The Farm Household Support Amendment Bill 2005 will give effect to amendments that aim to improve the effectiveness and administration of the Australian Government’s Farm Help programme and to further ensure that it reaches low income farmers most in need of assistance.

The purpose of the bill is to reinforce the structural adjustment focus of the Farm Help—Supporting Families Through Change programme. It seeks to clarify the qualification provisions for entry to the Farm Help programme, and to enable ongoing communication with Farm Help Re-establishment Grant recipients to confirm that recipients meet their undertakings not to re-enter farming and to notify of a change of address.

**Programme achievements to date**

The assistance provided through Farm Help is flexible and can be tailored to meet the needs of each farm family. The programme provides up to 12 months income support at the Newstart Allowance rate; a grant of up to $5,500 for professional advice and training; the development of an activity plan customised to each farm family’s situation; and a re-establishment grant of up to $50,000 for people who decide to leave farming and sell the farm. Applications for the Farm Help programme close on 30 June 2007.

Farm Help has a long record of achievement. Since the programme commenced on 1 December 1997: over 9,000 farmers have received Farm Help income support, almost 8,000 farmers have taken up Advice and Training session and over 1,000 farmers have received re-establishment assistance.

To date, the Australian Government has expended an estimated $178 million on the Farm Help programme, with an estimated $8.7 million in the current financial year, a positive commitment to strengthening the resilience of rural and regional Australia.

What are the changes to the programme?

The following changes will be reflected in the Farm Household Support Act 1992 and in the Act’s disallowable instruments, the Farm Help Advice and Training Scheme 1997 and the Farm Help Re-establishment Grant Scheme 1997:

**Amending the definition of farmer**

To ensure that the Farm Help programme and the Exceptional Circumstances Relief Payment are consistent in their definition of farmer, the defini-
tion will be amended to ‘a person who has a right or interest in the land used for the purposes of a farm enterprise’. The distinction between the target groups for the two programmes is then made in the specific qualification provisions for each programme.

This amendment will not affect the eligibility criteria for a person applying for the Exceptional Circumstances Relief Payment. To avoid any impact of the changed definition on the Exceptional Circumstances Relief Payment, the elements of the definition of farmer will be moved from the general definition in the Farm Household Support Act 1992, to the more specific qualification provisions for the Exceptional Circumstances Relief Payment.

Clarifying the qualification requirements for Farm Help
For the purposes of Farm Help, a farmer is currently defined under the Act as a person who has a right or interest in the land used for the purposes of the farm enterprise; contributes a significant part of his or her labour and capital to the farm enterprise; and derives a significant part of his or her income from the farm enterprise. However, this does not clearly state what ‘significant’ is, which is necessary to provide clarity to all parties, including applicants, decision-makers, courts and tribunals.

A new qualification provision for the Farm Help programme will define ‘significant’ for the purposes of Farm Help. That is, for a continuous period of at least 2 years immediately before they apply for entry to the Farm Help programme, the applicant has been a farmer; and has derived more than 50 per cent of his or her gross income from the farm enterprise; and has contributed more than 50 per cent of his or her capital on the farm enterprise; and has spent more than 50 per cent of his or her working hours in work on the farm enterprise.

I want to ensure that the revised income test does not prevent a low income farmer from accessing the programme if they experience a serious event outside their control. For example, a person may be unable to satisfy the income test because during the 2 year period, the person has experienced a flood, drought, bushfire or some other natural disaster; an unforeseen extreme variation in seasonal norms; a market collapse; or serious illness or disability. Accordingly, a person will be considered a ‘full time farmer’ if they can demonstrate that they meet these circumstances and satisfy other qualification criteria.

Review of re-establishment grant recipients
The other amendments to the Farm Household Support Act 1992 will enable reviews to be conducted of re-establishment grant recipients, to confirm they are complying with their undertakings not to re-enter farming within 5 years of receiving the re-establishment grant and to notify of a change in address.

Provisions have been developed which enable the Australian Government to apply a penalty to a person who fails to advise that they have re-entered farming, and to apply a penalty to those who fail to advise of their change of address, all within five years of receiving the grant. These provisions will not be retrospective.

Conclusion
The Government remains committed to the development of self-reliant, competitive and sustainable rural industries. Passage of this bill will clarify the qualification of farmers for the Farm Help Supporting Families Through Change program by clarifying the qualification provisions for entry to the Farm Help program and requiring ongoing communication with Farm Help re-establishment grant recipients regarding their undertakings not to re-enter farming and to notify any change of address. These amendments tighten the eligibility rules for access to the Farm Help program and include a new definition of a farmer as ‘a person who has a right or inter-
est in land used for the purpose of a farm enterprise'. The new rules seek to ensure that only a full-time farmer will be able to access the provisions of this program.

It is interesting that the first piece of legislation relating to the Farm Help program that we have seen since the election deals with an attempt by the Howard government to tighten eligibility criteria. These amendments are sensible and Labor will not be opposing them. However, it is interesting that these amendments were not those foreshadowed for this program at the time of the election last year. The government’s policies on agriculture for the 2004 election were contained in a document entitled *Investing in our farming future*. The commitment in relation to the Farm Help program is on page 4 of that document. The document states:

The revised program will encourage the use of strategic information, analysis and professional advice to help farm families with their business related decision-making.

There is no mention of revising the eligibility criteria or typing in the definitions. We will await with interest further amendments to the program to implement the commitments made by the government at the time of the election.

It is interesting that the lines used in the election campaign have not rated a mention in the second reading speech presented in the House of Representatives. As the second reading speech now incorporated in the Senate has not been seen by me—it was incorporated by leave—I make the assumption that it is similar to that given in the House of Representatives. No mention was made in that, as I said, of the commitments the government made during the election campaign or of the government’s intention to proceed with legislation to implement the promises it made to the farming community at the last election.

The Farm Help program has been operating since December 1997. Its exit provisions have been the centrepiece of the government’s structural adjustment efforts in the farm sector over the last seven years. I suppose the other notable aspect of the Farm Help program is that it has become a sort of piggy bank for the government in that monies allocated to the Farm Help program have been reprioritised year in, year out. The government promised a large amount of money—I think it was $114 million in 2000—which was the subject of a very significant underspend in the four years to 30 June 2004. I think only about half of the promised money was actually spent.

It is timely that we are discussing the need for structural adjustment when the Howard government’s mismanagement of the economy is putting farm families under even greater pressure. The interest rate rise announced a week ago by the Governor of the Reserve Bank will significantly add to the financial stress of Australia’s farmers. Commenting on the rate rise, the Chair of the National Farmers Federation Farm Business and Economics Committee, Mr Charles Burke, issued a press release last Wednesday which said:

Around 10 per cent of total farm cash costs go towards servicing ... debt levels of about $370,000 per farm ... This means that today’s move by the RBA will cost Australian farmers another $120 million a year and squeeze margins which are already under pressure from high exchange rates and high fuel costs.

The press release went on to say:

Mr Burke said the rate rise also came on top of one of Australia’s worst trade performances on record. The Current Account Deficit has hit $15.2 billion or 6.5 per cent of GDP.

“Higher interest rates will push the exchange rate higher, damaging exporters and fuelling more imports,” Mr Burke said. “This will also negatively affect the farm sector ...
Mr Burke concluded his press release by saying:

We need to boost exports to address the record current account which means that ideally, our interest rates should be falling relative to our major trading partners.

Mr Burke is absolutely right: the Howard government’s interest rate rise will negatively affect Australian farmers and, ideally, interest rates in Australia should be falling relative to those of our major trading partners. But our interest rates are historically high against the interest rates of those very trading partners. In some cases they are not just higher but higher by a multiple of three. The interest rate rises have been brought on, at least in part, by the Howard government’s irresponsible $66 billion pre-election spending spree and are adding fuel to our already high exchange rates.

Australian farmers are caught in a squeeze between the Howard government’s interest rate rises and the high exchange rate. It is in the context of this increased pressure being placed on the farm sector by the Howard government that we are discussing a bill today which amends the government’s approach to restructuring in this sector. It is an approach that in the past has delivered, frankly, very little to those farmers who, having examined their situation, have decided to exit farming.

The performance of the Farm Help program in assisting those who wish to give up farming altogether has been examined by the Senate rural and regional affairs committee on a number of occasions. Despite the government’s claims, it seems that a relatively small proportion of farmers who are leaving farming have actually been able to gain access to the provisions of the exit package. In the first four years of its operation, only 448 farmers managed to access the exit program. I will detail the total number of successful applications for re-establishment grants since June 2000: 182 in 2000-01; 161 in 2001-02; 161 again in 2002-03; 102 in 2003-04; and 23 up to December of the current financial year.

These low figures are in line with those which were achieved in the various other exit programs put on the table by this government. For example, as of 4 March, only 82 sugarcane growers had gained access to the re-establishment grants under the sugar industry restructuring package. In the pork industry, only 74 producers managed to secure grants under the pork industry exit program against an initial government estimate that about twice that number would get that assistance. In the dairy industry, where many thousands of producers were driven from the industry as a result of the deregulation forced on the industry by the government, only 66 farmers managed to successfully access the exit package in 2000-01, 51 in 2001-02, 19 in 2002-03 and two in 2003-04.

Given the numbers who have successfully gained access to the various Howard government exit packages, including Farm Help, it can hardly be said that the packages have played any significant role in restructuring our rural industries. For some time now farm organisations have been calling for reforms to the structure of these arrangements and especially to Farm Help. In its submission to the review of Agriculture Advancing Australia that was carried out two years ago, the National Farmers Federation made seven recommendations in relation to the Farm Help program. These were sensible suggestions aimed at making the program more effective, but so far the federal government has adopted one of the recommendations in full and another in part.

The other five recommendations have apparently been completely ignored. Let us look at those recommendations. I strongly
urge the government to revisit the National Farmers Federation’s submission and consider again the recommendations it has chosen to ignore. The first recommendation reads:

Farmhelp and similar exit programs should provide incentive for farmers considering retirement or industry exit to link with young individuals pursuing industry entry, therefore facilitating and accelerating the generational transfer of viable farm businesses ...

That sounds like a very sensible proposition. For instance, that could involve facilitating leasing arrangements, but unfortunately that has been completely ignored by the government. Another recommendation reads:

Review the extent to which the eligibility requirements that a farmer is ‘unable to borrow against their assets’ may be conflicting with the objective of the program (to allow farmers to assess their viability and where appropriate to assist in smooth transition out of farming) ...

In other words, it would provide an opportunity for a farmer who may not be totally at the end of their tether financially to make a decision to exit farming. That is what the National Farmers Federation is suggesting. Making a decision where the farmer has not pursued borrowing on the basis that their advice is that the business could not repay further borrowings, for example, would be a case which ought to be considered by the government. I believe that is what the National Farmers Federation was suggesting to the government, but the government has chosen to ignore that in its review of this program. The government spent millions of dollars in the 2001 election campaign to advertise and notify farmers about the program, and when it is being reviewed it ignores very sensible suggestions.

Another suggestion that the government has apparently ignored is:

In lieu of a bank statement documenting a farmer’s credit rating, allow Rural Financial Counsellors to certify the legitimacy of an individual farmers Farmhelp Application ...

No reason has been given for the rejection of that suggestion. It seems to be a sensible suggestion. Rural financial counsellors are a well respected group within the farming community and are in a position to know a particular farmer’s capacity to borrow. Rural financial counsellors are there to advise the farmer. Why will the federal government not accept their advice as to the credit position of a farmer? The National Farmers Federation also proposed:

Introduce more flexibility around the eligibility condition that requires a farmer not to have accessed the program more than once before or received more than six months income support on a previous occasion.

The NFF said:

This change would recognise that if Farmhelp is to be the long-term safety-net, over an extend period circumstances may arise where farmers may legitimately need to access the program on more than one occasion ...

That again seems to be a sensible proposition from the National Farmers Federation, batted away by the government. I again go to the proposal from the National Farmers Federation, which states:

Introduce flexible measures to allow support to continue beyond the first 12-months in circumstances where farm exit may be inadvertently delayed (ie: problems in selling property etc) or where an assessment of farm viability may take longer than this period ...

That is a sensible proposition which seems to take into account the varying circumstances in which a farm enterprise in difficulty might find itself, but the government has declined to pick up this suggestion. The NFF also suggested:

Increase the net assets threshold for the re-establishment to $150,000 therefore enhancing the financial capacity of farm families to successfully re-establish following exit and reduce the
likelihood such individuals will require ongoing welfare support following exit.

That proposal seems to suggest that the Commonwealth would not actually be involved in making additional expenditure because it would be saved from future welfare costs as result of facilitating exits in those circumstances. Again, there has been no positive response from the government. I say that in the context of the words which the government used in its election campaign, and I will quote them again. Talking about Farm Help, the government said:

The revised program will encourage the use of strategic information, analysis and professional advice to help farm families with their business related decision making.

Nothing in this legislation does anything of the sort. Nothing in the government’s response to the suggestions of the National Farmers Federation has embraced anything like the principles enunciated by the government in the election campaign, but the government is keen to tighten what it sees as loopholes in the program. The opposition will not be opposing that; there is some sense in it.

In closing the debate, it would be good if the responsible minister could tell the Senate exactly what the government’s intentions are in relation to those fine-sounding words that it expressed during the election campaign and what it intends to do with the suggestions of the National Farmers Federation in relation to the specific amendments that they propose to the Farm Help program. That would be very good. That would probably assist the debate insofar as the views of the farming community are concerned.

The economic circumstances which the farming community finds itself in should not be underestimated. The strength of the Australian dollar, which I have referred to, has a very direct impact on the farming sector, particularly the export sector. Prices in some sectors have been positive. But overall one would have to say that, if the value of the Australian dollar remains at the level it is at now, some sectors will find it difficult to make provision for the difficult times which no doubt will lie ahead if the usual cycle of drought or dry periods returns. These are testing times for the sector. Provisions such as Farm Help are matters that the government should pay attention to now, in relatively better times, rather than scramble to make provision sometime later when crisis is upon a particular sector in the farming industry. The opposition will be supporting this legislation. We do so not on the basis that it gives effect to the government’s election commitments—it does not—but, rather, on the basis that there is no reason in sense to oppose it.

**Senator FERRIS** (South Australia) (11.46 a.m.)—I want to contribute to the debate on the Farm Household Support Amendment Bill 2005, because it will give effect to amendments that reinforce the structural adjustment focus of the program Farm Help—Supporting Families Through Change. This has been a very important part of the policy of this government for primary industries for some years now. In supporting this bill I would like to look at the framework in which the Farm Help program to help farmers exists.

The Agriculture Advancing Australia program, or AAA as it is known, is the government’s commitment to farmers and their families. It remains an ongoing commitment to the development of self-reliant, competitive and sustainable rural industries. AAA began in 1997. Over seven years that overarching program has provided over $1 billion in funding towards programs that are designed to help to ensure the long-term prosperity of Australian agriculture, something this government retains a very strong com-
mitment towards. Over 150,000 primary producers have directly benefited from this package since it began. This represents more than half of the Australian agricultural sector. The AAA package includes a variety of programs for farmers, including Farmbis, a very important part of the program; the agricultural development package; the Rural Financial Counselling Service; and, of course, the Farm Help program.

The Rural Financial Counselling Service was an initiative of the former government. I believe it was former Minister John Kerin who implemented that program. Over the years it has been an incredibly important part of advice to farmers under pressure. But an integral part of the AAA package, Farm Help, has a long record of achievement in helping farmers across this country—$178 million has been committed to the program since it began on 1 December 1997, with an estimated $8.7 million being provided in this year alone. This funding and the government’s commitment to continuing to fund this program clearly demonstrate our strong commitment to rural and regional Australia and our desire to strengthen rural communities. Australian farmers will always be vulnerable to a number of factors in their industry which impact on their livelihoods quite dramatically. These include extreme weather conditions such as drought, like the terrible dry we are having now in many parts of Australia, floods or other natural disasters. A recent example of a natural disaster in my home state of South Australia, of course, was the terrible bushfires on the Eyre Peninsula.

Senator O’Brien touched on the varying exchange rate a few moments ago. The high rate of the Australian dollar is causing huge difficulties for many agricultural commodities, particularly some of the horticultural and seafood exports. There has been an impact from unfair tariffs upon our exports, despite our government’s initiatives with free trade agreements and the work of the very important Cairns Group to reform worldwide agricultural subsidies. There has been an oversupply of commodities on the international market. This issue is currently demonstrated in the beef industry. The Japanese government recently made an announcement that Japan will begin accepting US beef after coming to an agreement to allow US methodology in determining the age of cattle. This means that Australian beef producers, who have benefited quite dramatically from the exclusion of US beef from the Japanese market, could see their market share diminish quite significantly.

All of these very important and quite fundamental issues clearly demonstrate that a structural adjustment package in Australia’s farming sector has an ongoing demand and will always be a concern in times of disadvantage. This is where programs such as Farm Help come into their own. Farm Help is available to farmers who are no longer able to borrow against their assets. To be eligible to receive Farm Help, applicants need to meet certain criteria. They have to be in primary production and must have been in it for a continuous period of at least two years immediately before applying for the scheme. They need to be over 18 years old. That is not difficult—most farmers are well over 18 years old; they are closer to 60 years old. They must not be involved in bankruptcy proceedings or have been issued with an eviction order or have in any other way lost control of the management of their property. They must not be in receipt of any other assistance from Centrelink, such as exceptional circumstances relief payments or the Newstart allowance, at the same time as receiving Farm Help. They must have joined the program only once before and received less than six months income support from the program during that time. They also need to have attended initial advice sessions that in-
cluded a professional assessment of their farm enterprise’s financial situation and an assessment of their ability to obtain further finance. They need also to have developed a Farm Help Pathways Plan with a Centrelink Farm Help contact officer. At first glance that might seem like a very complicated set of criteria, but at every stage along the way the Rural Financial Counselling Service is there to provide assistance to meet those criteria.

Since the program began in 1997, about 9,000 farm families have received Farm Help and income support, and over 8,000 farmers have attended advice and training sessions, as well as another 1,000 receiving re-establishment assistance. Farmers from industries as diverse as dairy, sugar and pork have received this re-establishment assistance. The numbers are quite significant. They clearly demonstrate that Farm Help is a vital tool for our farmers. I am sure that nobody in this chamber would like to think about what might have become of those 9,000 farming families if this assistance had not been available to them.

Importantly for farmers, the assistance offered through Farm Help is flexible and it can be tailored to the needs of individual farmers and their families. Centrelink Farm Help contact officers are available to give regular and personalised service. They can advise on the different options available under the program—including financial assistance, advice, training and planning for the future—and they can give support if the very difficult decision is made to leave the family farm. The program provides for up to 12 months income support at the Newstart allowance rate, up to $5,500 for advice and training, a customised plan for individual farms to help identify options, and a re-establishment grant of up to $50,000 for qualifying families who decide to leave primary industry.

It is a very traumatic decision for any farm family to make to leave their property. This is especially so for farmers whose properties have been owned by their family for generations. It is something that I have seen first-hand, unfortunately, a number of times, and I know how traumatic it is for the family—the wife, the children and often the parents who are still living on the property. Any assistance that can be given at that time often provides a lifeline, and sometimes it is the only lifeline the family have. A sense of overwhelming failure falls on a family that is forced to leave not only the farm but the district—the district where the members of the family may have grown up, the children are attending school and the family is integrated into the community. That is extremely traumatic. It is very important that assistance is available at that time. I am sure that in the past many farmers would have liked to have had access to the suite of measures that we now offer to those who have to leave their properties in times of adversity.

The amendments contained in this bill will assist the parties involved in Farm Help decisions to make clear the distinction between the Farm Help program, which focuses on an adjustment, and the exceptional circumstances relief payment, which is primarily a welfare program. It will also clarify for the purposes of Farm Help the definition of ‘significant’ labour or capital contribution and ‘significant’ income. This will ensure that Farm Help reaches its target audience of full-time farmers.

The discretion clause which is included in the bill will ensure that there is provision for genuine farmers who cannot meet the 50 per cent of gross income requirement in the two-year period prior to application because of factors beyond their control—such as a natural disaster, adverse seasonal conditions, a market collapse, serious family illness or a disability. The amendments also include a
clause ensuring ongoing communication with re-establishment grant recipients to confirm that they have adhered to their undertaking not to re-enter farming within five years of receiving the grant. The amendments will also ensure that the re-establishment grants are used for the purpose intended—to provide assistance for families in severe financial difficulties so they can leave farming.

While I am speaking on this bill, I will also take the opportunity to speak about another program within the umbrella of the AAA that has recently assisted farmers in South Australia. One of these very valuable services has been the Rural Financial Counselling Service, which has been very helpful in the eastern Eyre rural counselling area, which is located on South Australia’s west coast. That service has been at the forefront of family assistance for those devastated by the bushfires on the Eyre Peninsula. I would like to take a moment to reflect on our government’s response to the EP bushfire tragedy that occurred in South Australia in January and the visit undertaken recently by our Minister for Agriculture, Fisheries and Forestry, Warren Truss, and the local federal member, my colleague and friend Barry Wakelin, the week before last.

The tragic bushfires within the electorate of Grey, Mr Wakelin’s electorate, took nine lives and destroyed almost 83,000 hectares of farmland in just a couple of hours—an incredibly short time. However, rebuilding those farming enterprises and restoring the badly scarred landscape will take years. With this in mind, our government has committed to funding support grants of up to $4,000 for land-holders to develop property management plans. These plans will allow land-holders to address the most effective approach to sustainable agriculture and improving productivity. Most importantly, they will allow those farmers to begin to think about the future—something that was cruelly taken away from them within a matter of hours on one very hot summer day. They will also assist land-holders to protect environmental values such as water quality, soil condition and, importantly, the biodiversity of the Eyre Peninsula. Land-holders will also be able to apply for additional grants of up to $10,000 per farm to implement the plans through on-ground activities such as revegetation, fencing, and salinity and erosion control.

Importantly, communities always pull together on such occasions. I do not think anybody who has been through an event like this will ever again underestimate the value of the community support that is forthcoming. Certainly, in South Australia that support came from Adelaide in buckets. The $2.74 million of in-kind support from the local community brought the total package now available to those devastated families to in excess of $8 million, once the South Australian government signs off on its commitment.

Another AAA program which has seen successful in South Australia in particular is FarmBis. Some 23,000 South Australians have participated in the FarmBis program and have received assistance to improve their business and natural resource management skills to meet the challenges and the opportunities ahead. Farming is a very difficult business. Farmers are exposed to the elements in all sorts of ways. Any assistance that can be given to farm families to help them get through the difficult periods they encounter during times of adversity is very important. I commend the changes this bill makes to the program.

Senator McGAURAN (Victoria) (12.00 p.m.)—I support my colleague Senator Ferris on the Farm Household Support Amendment Bill 2005, which is designed to reinforce the structural adjustment focus of the government’s Farm Help Supporting Families
Through Change program. The objective of Farm Help is to provide short-term income support to low-income farm families who are experiencing financial hardship and are unable to borrow further against their assets. It allows them to take action to improve their long-term financial situation by improving the financial performance of their farm, finding alternative sources of income or re-establishing themselves outside the farming world, as difficult a decision as that may well be.

Farm Help is administered by Centrelink and provides a package of measures delivering assistance worth up to about $55,500 per farm. In the second reading speech, the minister noted that the commencement of Farm Help has provided income support to over 9,000 farmers, assisted nearly 8,000 farmers with advice and training and provided re-establishment assistance to over 1,000 farmers. Total expenditure to date is estimated at $178 million, with $8.7 million so far spent in 2004-05. The government expects total Farm Help expenditure in 2004-05 to be $28.8 million. This compares to $34.4 million in the previous year, 2003-04, which is a reduction due to the lower than initially expected uptake amongst farmers.

The bill that we are discussing today extends the Farm Help program by another four years to 2008 and extends the closing date for applications for income support and re-establishment grants to 30 June 2007. The bill also increases the maximum re-establishment grant from $45,000 to $50,000. The bill requires applicants to undertake an initial advice session to establish their farm’s financial situation and develop a pathway plan before claiming income support—a necessary accountability—and requires the initial advice session to be undertaken by a prescribed adviser and include an assessment of their ability to access further finance. The bill also provides immediate access to income support if applicants meet the program’s hardship provisions, strengthens mutual obligation provisions through quarterly reviews of pathway plans and stops farmers from suspending Farm Help income support in order to access the exceptional circumstances relief payment before returning to Farm Help income support. These things introduce some accountability measures and focus more tightly on the main purpose of the program. They are welcomed by the rural industry.

This is part of a 1997 program introduced by this government, the AAA package, which is designed to help rural businesses face the challenges of the future by becoming more competitive, sustainable and profitable. There are several programs within the AAA package, and the Farm Household Support is but one. Another program, mentioned by my colleague Senator Ferris, is FarmBis, which provides grants for organisations to develop business management education and training initiatives for Australia’s agricultural, horticultural, aquacultural, commercial fishing and apicultural industries. As a national program, it funds projects that benefit two or more states and have a wide industry application or target women or young people in the rural industries. This is one of the most successful areas of the AAA package, so much so that the Victorian government recently announced that it has signed on to a dollar for dollar agreement for several more years to come.

The minister’s press release of 9 February states that the Victorian government and the Australian government are each contributing $6 million for FarmBis activities in the state of Victoria. Minister Truss said:

That means a healthy $12 million will be available over the next three years to help the State’s primary producers and rural land managers improve their business management skills and access other high-quality training opportunities...
The minister also said:
With 35,000 FarmBis participants already in Victoria, the program represents a significant long-term boost to the State’s farm sector and wider economy.

Another very successful program within the AAA package is the Farm Management Deposit Scheme. This program enables farmers to set aside pretax income in good years as cash reserves to help meet costs in low-income years. Further information is available on the government web site. The Farm Management Deposit Scheme was first introduced in 1999 and was gobbled up by the farming community. As I said, it is designed to provide eligible primary producers with a consistent cash flow—one of their main complaints, given that they are subject to droughts, floods and market variations like no other industry. This Farm Management Deposit Scheme brings a great support and safety net to farmers. The scheme is run through commercially available deposit accounts offered by authorised banks, credit unions and building societies.

As of June 2004, over $2.62 billion had been invested. Nationally, over 43,000 farmers use the scheme, which has a total holding, as I say, of some $2.6 billion. This represents an average of $60,000 per deposit holder. A wide variety of rural industries utilise the FMD Scheme, the biggest being the grain producers with over $663 million invested. Then there are the broadacre farmers with $542 million, beef producers with $352 million and horticulturists with $264 million. So just about every industry takes advantage of the Farm Management Deposit Scheme.

The government fully supports the AAA package and, according to its needs, is constantly reviewing, changing and tightening it and, if necessary, introducing accountability. I can inform the Senate that the government has no intention whatsoever of abolishing it. It is one of the most successful schemes that this government has ever introduced for the farm sector. It is a part of, if not a key part of, our support of the rural sector.

But I did note that in the contribution today from Senator O’Brien, the opposition shadow minister for this portfolio, he raised the question of the economy: that farmers are suffering under the economic conditions brought about—as of course he would say—by this government. I will make two points. He raised the issue of interest rates. First of all, nothing seared the businesses, if not the souls, of the rural sector than the previous Hawke-Keating governments’ interest rate regime, which reached beyond the 17 per cent level that we so frequently quote in this chamber. The 17 per cent figure that we quote was the interest rate on household borrowings. But for the farmers it was more than that. For their overdrafts, it was a ridiculous 24-plus per cent—unsustainable. Of course, many of them went to the wall and those that have survived and have remained on their farms today have never forgotten that interest rate regime, particularly when they compare it with today’s.

Let me give the chamber, including Senator O’Brien, some information about today’s interest rates. In the time since this government was elected, interest rates have had some 10 moves upwards and 12 moves downwards. Interest rates in this country are deregulated, which means that they move up and down. Of course, the moves down have been of a greater margin than the upward moves. But no-one should think that interest rates in this country will not fluctuate. Just recently they fluctuated only 0.25 per cent—a very small percentage. Interest rates have moved some 22 times while we have been in government. Blind Freddy—and even Senator O’Brien, if he cared to admit it—knows that the moves down from the rates under the previous government have been enormous.
In fact, there have been no movements in interest rates for 14 months.

But the most important thing is the band into which interest rates move. Under the previous government, the rural sector for their overdrafts faced an interest rate move to a band between 12 and 24 per cent; for home loans, it was 10 and 17 per cent. To take a benchmark, under this government, the low point for home loans has been six per cent and the high point has been eight per cent. At the moment it is 7.3 per cent—right in the middle. That is the band on which all sectors, including the farm sector and households, can make their judgments and plan for and around. And Senator O’Brien has the gall to say in this debate that interest rates are a burden.

The second point he made concerned the high value of the Australian dollar. Of course, the rural sector, given that it exports 80 per cent of its product, is sensitive to the value of the deregulated Australian dollar—the lower, the better. We would like it lower, but it is subject to forces beyond our control. It is a commodity dollar. The minerals and energy sector is now starting to grow, if not boom, overseas, which has an effect on our dollar, and there is the weaker American dollar. All these influences have an effect on the Australian dollar, to which we know the rural sector is very sensitive.

But I would say to Senator O’Brien that, whilst we would like to see a lower Australian dollar for the sake of the rural sector, it is more important that this sector, which so relies on exports, gets its exports off the docks and is able to export. I see Senator O’Brien smiling because he knows exactly what I am leading into. If you support the rural sector—you have had that portfolio basically for the last nine years; you have certainly been the spokesman in this chamber for nine years—you would support this government’s industrial relations reforms. You did not support the old ones, and I see you nodding your head that you are not going to support the new ones. It is crucial to the rural sector that you support our industrial relations reform package. You did not support the waterfront reforms. Because of your union affiliation, you did not mind that the rural sector had its exports locked up in containers on the waterfront.

Senator O’Brien interjecting—

Senator McGauran—You are denying it. What a joke that is! To this day, you cannot even see the improvements that have occurred. You stood against this government’s industrial relations reforms, which brought great improvements. We had to tough it out with the union and the opposition, and the result has been a record number of container lifts and a record low number of strikes. We have not heard boo from the waterfront since the reforms were put in place. In fact, the farm sector led the charge. It knew that its main problem was the waterfront. It is no use getting your economic fundamentals right—that is, interest rates and the Australian dollar—if you cannot get your exports off the waterfront. The NFF—which you seem so keen to quote in this chamber; I suspect you will support every one of their policies, which will be written into your document—were the ones that led one of the great reforms of this nation.

We see the benefits of it today. The effects have cascaded right through to the farm gate in a better income result. The farm sector is subject to drought, flood and fire but it is not subject to strikes, corruption or obstruction on the waterfront anymore. At least it can get its product through the farm gate and onto the waterfront and off to whatever country it is exporting it to.

That brings me to another objection that those opposite made which was detrimental
to the rural sector: their long-time objection to the US-Australia Free Trade Agreement. They held it up, they delayed it, they found nitpicking reasons to not support it and they sought change until finally the politics of it brought them to the point where they had to support it. We know they did it begrudgingly and we know that if they had been in government they would never have supported it. Yet this agreement brings the greatest benefit to the farm gate since probably the waterfront reforms.

Senator O’Brien—You said that without sugar it was not worth doing; it was un-Australian. Now it is a great thing, according to the National Party.

Senator McGauran—It is a great thing. We regret that we could not include the sugar industry in the body of the agreement. But they are no worse off and do not try to paint it that they are. Every industry is better off under this agreement. Even the smallest industries—like the avocado industry, which has never had the competitive opportunity to export to America—benefit. They now have that opportunity because of the fall in the rate of tariffs. The fall in the rate of tariffs immediately benefits the citrus industry. With the beef industry, we would have liked a shorter time line but we were unable to get one. The dairy industry will within five years basically have free trade with the United States.

You objected to a trade agreement with the largest economy in the world. How foolish was that? What concern can you say you have for the rural sector? Senator O’Brien, I should say, works hard for his party. No-one asks more questions in committees than Senator O’Brien. But the truth of the matter is that he is in a party that the rural sector will never support because they know the form that it has. They know from the history of the Labor Party that it ignores the rural and farming sector. It really is an embarrassment for Senator O’Brien to have to come in here and try to mount some sort of support and defence of the Labor Party. You had to quote the NFF policies. You will not even claim them as your own. You laboriously quoted the NFF policies but we have not heard you quote your own policies in here.

Senator O’Brien—Yes, you have.

Senator McGauran—No, I have not.

Senator O’Brien—Yes, you have.

Senator McGauran—Well, I would like to know what they are. The rural sector would like to know what they are. Do you support the IR reforms? Will you support our budget in May, which will be a sound, tight, solid budget that will put downward pressure on interest rates? That is the bottom line on the budget.

Senator O’Brien—We will not block supply.

Senator McGauran—Senator O’Brien, I will not get into a tit for tat with you. My time is now up. I should add that both sides of the house support this bill. Even the Labor Party, which is quite often brought kicking and screaming to the table in support of our legislation, knows that this is a fine program.

Senator Colbeck (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (12.19 p.m.)—The Farm Household Support Amendment Bill 2005 will give effect to amendments that aim to improve the effectiveness and the administration of the Australian government’s Farm Help program and to further ensure that it reaches low-income farmers most in need of assistance. The purpose of the bill is to reinforce the structural adjustment focus of the Farm Help Supporting Families Through Change program. It
seeks to clarify the provisions for entry to the Farm Help program and to enable ongoing communication with Farm Help re-establishment grant recipients to confirm that recipients meet their undertakings not to re-enter farming and to notify of a change of address.

The assistance provided through Farm Help is flexible and can be tailored to meet the needs of each farm family. The program provides up to 12 months income support at the Newstart allowance rate, a grant of up to $5,500 for professional advice and training, the development of an activity plan customised to each farm family and a re-establishment grant of up to $50,000 for people who have decided to leave farming and sell the farm. Applications for the Farm Help program close on 30 June 2007. Farm Help has a long record of achievement and since the program commenced on 1 December 1997 over 9,000 farmers have received Farm Help income support, almost 8,000 farmers have taken up advice and training sessions and over 1,000 farmers have received re-establishment assistance. To date, the Australian government has expended $178 million on the Farm Help program, with an estimated $8.7 million in the current financial year—a positive commitment to strengthening the resilience of rural and regional Australia.

The following changes will be reflected in the Farm Household Support Act 1992, the act's disallowable instruments, the Farm Help advice and training scheme 1997 and the Farm Help re-establishment grants scheme 1997. To ensure that the Farm Help program and the exceptional circumstances relief payment are consistent in their definition of 'farmer', the definition will be amended to 'a person who has a right or interest in the land used for the purposes of a farm enterprise' and 'derives a significant part of his or her income from the farm enterprise'. However, this does not clearly state what 'significant' is, and this is necessary to provide clarity to all parties, including applicants, decision makers, courts and tribunals. A new qualification provision for the Farm Help program will define 'significant' for the purposes of Farm Help—that is, for a continuous period of at least two years immediately before they apply for entry to the Farm Help program the applicant has been a farmer, has derived more than 50 per cent of his or her gross income from the farm enterprise, has contributed more than 50 per cent of his or her capital to the farm enterprise and has spent more than 50 per cent of his or her working hours on the farm enterprise.

I want to ensure that the revised income test does not prevent low-income farmers from accessing the program if they experience a serious event outside their control. For example, a person may be unable to satisfy the income test because during the two-year period the person had experienced a drought, flood, bushfire or some other natural disaster or unforeseen extreme variation in seasonal norms, a market collapse or a serious illness or disability. Accordingly, a
person will be considered a full-time farmer if they can demonstrate that they meet these circumstances and satisfy other qualification criteria.

Other amendments to the Farm Household Support Act will enable reviews to be conducted of re-establishment grant recipients to confirm that they are complying with their undertakings not to re-enter farming within five years of receiving the re-establishment grant and to notify of a change in address. Provisions have been developed which enable the Australian government to apply penalties to a person who fails to advise that they have re-entered farming and to apply a penalty to those who fail to advise of their change of address within five years of receiving the grant. These provisions will not be retrospective.

The government remains committed to the development of self-reliant, competitive, sustainable rural industries. The passage of this bill will clarify the qualification of farmers for the Farm Help program, ensuring that assistance goes to low-income farmers who are most in need. It will also ensure that re-establishment grants are being used for the purposes intended: to provide assistance to persons in severe financial difficulty to leave farming should they choose to do so.

The Farm Help program is an important part of the Agriculture Advancing Australia, AAA, package. AAA reflects the government’s overarching commitment to all farmers and our ongoing commitment to the development of self-reliant, competitive and sustainable rural industries. AAA was introduced in 1997 and in seven years has contributed over $1 billion to help assure the long-term prosperity of Australian agriculture and rural communities. Over 150,000 primary producers, representing more than half of the Australian agricultural sector, have directly benefited from the package. AAA was renewed in the 2004-05 federal budget due to its success as a trigger for positive change in rural and regional Australia and in recognition of the considerable assistance it is providing to farming families.

I would like to take this opportunity to highlight a couple of recent successes of AAA. The Rural Financial Counselling Service responded promptly after the devastating January bushfires on the Eyre Peninsula. The Eastern Eyre Rural Counselling Service—located at Tumby Bay, north of the disaster area, and most affected by the bushfire—is still providing a focal point for general assistance with the disaster response. Through the South Australian Association of Rural Counselling Services, additional counsellors were deployed to the affected area on a rotational basis—from Kangaroo Island and other South Australian counselling services. The Rural Financial Counselling Service has been reviewed with a view to further improving the efficiency, timeliness and sustainability of the program and its delivery.

FarmBis continues to be a key element of the AAA package and last year was renewed for a further four years, with a government commitment of up to $66.7 million. The government has been working closely with the states on new program arrangements and has finalised agreements with Western Australia, Victoria, Queensland, Tasmania and South Australia. I call on New South Wales and the Northern Territory to formalise their respective funding commitments to the program as soon as possible. This will ensure that primary producers and rural land managers continue to benefit from the training opportunities in business and natural resource management skills that the FarmBis program provides.

The AAA Industry Partnerships program is encouraging industries to be proactive in responding to challenges and opportunities.
It is working in partnership with Australia’s agriculture, fisheries and forestry industries to assist them to improve their resilience and self-reliance. A key part of the Industry Partnerships program is the successful Young People in Rural Industries Program, to which since 2001 the government has provided over $2 million in funding to further the skills, knowledge and participation of young people in rural industries. A further success of AAA is the Farm Help program. It continues to provide assistance for farmers working towards adjustment. Farm Help has a long record of achievement. Since the program commenced on 1 December 1997, over 9,000 farmers have received Farm Help income support, almost 8,000 farmers have taken up advice and training sessions and over 1,000 farmers have received re-establishment assistance.

The purpose of the Farm Household Support Amendment Bill 2005 is to reinforce the structural adjustment focus of the Farm Help program. The bill seeks to do this by clarifying the qualification provisions for entry to the Farm Help program and enabling ongoing communication with Farm Help re-establishment grant recipients regarding their undertakings not to re-enter farming and to notify a change of address. Farm Help is an evolving program which responds to the needs of farmers where possible. The need to clarify the qualification provisions for entry to the Farm Help program has arisen due to recent needs by decision makers, courts and tribunals for clarity on who is considered a full-time farmer.

The amendments will ensure that government funding is going to the target audience of Farm Help, which is low-income, full-time farmers. These provisions also aim to improve the effectiveness and the administration of the Farm Help program by allowing for follow-up to determine whether the program has assisted farmers to re-establish out of farming successfully. They are also to ensure that they comply with their agreement not to return to farming within five years of receiving the establishment grant.

I will just comment on a couple of items raised by Senator O’Brien. He referred to the government’s election commitment to extend and enhance the Farm Help program. This in fact came into effect on 1 July 2004. In respect of expenditure, the Farm Help program is a demand driven program and, as such, the expenditure is dependent upon those who are seeking the program. I would like to thank all those who have made a contribution to the bill and commend it to the Senate.

Question agreed to.

Third Reading

Bill read a second time.

FAMILY AND COMMUNITY SERVICES AND VETERANS’ AFFAIRS
LEGISLATION AMENDMENT (FURTHER 2004 ELECTION
COMMITMENTS AND OTHER MEASURES) BILL 2005

First Reading

Bill received from the House of Representatives.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (12.32 p.m.)—I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (12.32 p.m.)—I move:
That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

FAMILY AND COMMUNITY SERVICES AND VETERANS’ AFFAIRS LEGISLATION AMENDMENT (FURTHER 2004 ELECTION COMMITMENTS AND OTHER MEASURES) BILL 2005

This bill will amend the social security law, the family assistance law and the Veterans’ Entitlements Act 1986 to provide for two further commitments made by the Government before the 2004 election. These commitments are aimed at families with children and older Australians.

The first of these commitments is to increase the rate of family tax benefit Part B. The bill gives effect to this by introducing a new FTB Part B supplement. The new supplement will be added to an individual’s standard rate of FTB Part B and will be payable as a lump sum on income reconciliation after the end of the income year in the same way as the FTB Part A supplement introduced last year.

The annual amount of the new supplement will initially be set at $302.95 (for the 2004-05 income year). This amount represents a daily amount of 83 cents. As the FTB Part B supplement commences from 1 January 2005 and there are 181 days in the period 1 January to 30 June 2005, the maximum FTB Part B supplement for that period would be $150.23.

The FTB Part B supplement will be subject to a one-off 6-month indexation arrangement on 1 July 2005 (which reflects its 1 January 2005 commencement) and then will be indexed on 1 July 2006 and each following 1 July according to annual movements in the Consumer Price Index.

The second 2004 election commitment given effect by this bill is to exempt aged care accommodation bonds from the social security and veterans’ affairs means test. The Government is delivering this commitment in an easily understood manner that will provide elderly Australians with peace of mind and will afford them the opportunity to manage their transition to aged care.

Currently, where a customer pays an accommodation bond to an aged care facility, the refundable balance of the bond is held as an asset of the customer for means testing purposes. This may result in a reduction in the pension the customer receives from the Government and may, in some cases, mean that a pension is no longer payable. These amendments will mean that many older Australians will be able to receive a higher rate of payment, or obtain a payment from the Government that they would not otherwise have had.

These amendments will also allow customers who pay their accommodation bonds by periodic payments to rent out their former home, without the rental payments affecting their rate of payment from the Government. Customers in this situation will also be able to retain the asset test exemption for their former home during any period in which they rent it out. This change mirrors existing concessions available to residents in high-level aged care who pay accommodation charges.

There will also be provision for customers who will now be eligible for either a social security or veterans’ affairs payment because of these changes to have their payment backdated to 1 July 2005. The backdating will be available where customers apply to Centrelink or the Department of Veterans’ Affairs for a payment prior to 30 September 2005 or, if they have special circumstances, to 30 June 2006.

In a separate measure, this bill repeals the existing formula for the family tax benefit child income cut-out amount for FTB. A child whose income equals or exceeds the cut-out amount cannot attract payment of FTB.

The formula is being replaced with a specified amount of $11,233. This figure represents annual indexation of the existing amount for 2004-05 of $10,948. The new cut-out amount will apply from 1 July 2005 and will be indexed on 1 July 2006 and each following 1 July according to movements in the Consumer Price Index.

The new amount is higher than the amount of $11,218 that would have been applicable from 1 July 2005 under the existing formula.
Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (12.33 p.m.)—I rise to speak on the Family and Community Services and Veterans’ Affairs Legislation Amendment (Further 2004 Election Commitments and Other Measures) Bill 2005. Am I the only one who has noticed that the bill names seem to be getting longer and longer! At the outset, I indicate that Labor will be supporting the passage of this bill through the Senate today. I want to take the opportunity presented by this debate to highlight some examples of the Howard government’s continued neglect of our social welfare system and the implications for Australian families.

Labor support the bill not because the measures within it are strong or it is the best approach to dealing with the issues we face as a nation; we support this bill because these measures go some way to alleviating for some Australian families the hardships created by the Howard government over the last nine years. Many families are suffering under the government’s continued mishandling of our social welfare system. Labour have no intention of standing in the way of any financial relief that those families can get. Disappointingly, however, the bill makes no attempt to address any of the underlying structural problems in our social welfare system. This is evident from the government’s consistent failure to acknowledge the grave flaws in its family tax benefit system. We continue to see hundreds of thousands of families hit with large family tax benefit debts year after year, and now we have learnt that some of Australia’s richest families, with earnings of over $1 million each year, are still being paid obligation-free welfare of up to $3,000 a year in the form of family tax benefit part B.

This bill makes no attempt to address these obvious structural inconsistencies in the family tax benefit system. Instead, it introduces another quick fix, demonstrating, yet again, the government’s bandaid approach to social security. It just cannot get its head around the difficult issues that need to be confronted. I will take this opportunity to point out some of those failings and show how these are symptomatic of the government’s continued mishandling of our social welfare framework.

The bill itself proposes to amend the following legislation: the A New Tax System (Family Assistance) Act 1999 and the A New Tax System (Family Assistance) (Administration) Act 1999 to introduce a new family tax benefit part B supplement from 1 January 2005; the A New Tax System (Family Assistance) Act 1999 to replace the existing formula for the child income cut-out amount for the family tax benefit, with a specified indexed cut-out amount; and the Social Security Act 1991 and the Veterans’ Entitlements Act 1986 to exempt aged care accommodation bonds from the operations of the assets test. And some people think the tax act is complicated!

I will deal with each of these measures in turn. Schedule 1 seeks to create a family tax benefit B supplement. As part of its election commitment to provide extra assistance for families, the government promised to increase the maximum rate of family tax benefit part B by $300, starting from 1 July 2005. After the election the government subsequently announced that it would backdate the new payment to 1 January 2005, and it would now be paid as a lump sum or as income reconciliation after the end of the relevant income year. It is claimed that schedule 1 of the bill gives legislative effect to this commitment through the introduction of the new family tax benefit B supplement. The annual amount of the new supplement will initially be set at $302.95 for the 2004-05 financial year. This represents a daily amount of 83c. As the family tax benefit B supple-
ment commences from 1 January 2005—and there are 181 days in the period from 1 January to 30 June 2005—eligible families will be paid up to $150.23 for this period. That money will be paid when the family tax return is lodged after 1 July this year.

The family tax benefit part B supplement will be subject to a one-off six-month indexation arrangement on 1 July 2005, reflecting its commencement date of 1 January 2005 and then will be indexed on 1 July 2006 and each following 1 July according to annual movements in the consumer price index. The creation of this family tax benefit supplement was not what the government promised during the election campaign. I will return to that later in my speech.

Schedule 2 of the bill proposes to change the formula for calculating the child income cut-out amount for family tax benefit. Under section 22A(1) of the A New Tax System (Family Assistance) Act 1999, certain children cannot be regarded as children for the purposes of FTB eligibility if the child’s adjusted taxable income exceeds a cut-out amount. Children aged five to 15 years who are not undertaking full-time study or primary school education and all those aged 16 years or more are covered by this provision. At present, the cut-out amount is determined with reference to the rate of family tax benefit part B for children aged five years or more and the income test free threshold and the family tax benefit part B income test. Both of these reference values have been changed or are likely to be changed in the future as family assistance policy evolves. This bill removes the present formula and sets out a specific dollar amount for the cut-out of $11,233 from 1 July 2005. This amount will then be subject to annual consumer price indexation to maintain its value in real terms. This will remove any chance of the cut-out amount being influenced by future changes to the structure of family tax benefit part B.

Schedule 3 of the bill exempts aged care accommodation bonds from the operation of the social security and veterans’ affairs assets test. Currently, where a customer pays an accommodation bond on an aged care facility the refundable balance of the bond is held as an asset of the customer for means testing purposes. This can result in a reduction in the pension the customer receives and may in some cases mean that a pension is no longer payable. These amendments, which are welcome and have Labor’s full support, mean that many older Australians will be able to receive a higher rate of payment or obtain a payment that they would otherwise not have been able to.

These amendments will also allow customers to pay their accommodation bonds by periodic payment and to rent out their former home without the rental payments affecting their rate of pension. Customers in this situation will also be able to retain the asset test exemption for their former home during any period in which they rent it out. This change mirrors existing concessions available to residents in higher level aged care who pay accommodation charges. There will also be provision for customers who will now be eligible for a social security or veterans’ affairs payment because of these changes to have their payment backdated to 1 July 2005. The backdating will be made available where customers apply to Centrelink or the Department of Veterans’ Affairs for payment prior to 30 September 2005 or, if they have special circumstances, to 30 June 2006.

I will concentrate my other remarks on the proposal to introduce the family tax benefit part B supplement. As I indicated earlier, it is quite clear that the proposed changes to family tax benefit B included in this bill are not what families were promised during the elec-
tion campaign. As a result of this broken promise, eligible families will now receive only half of what they were promised during the next financial year. As part of its election policy ‘Extra assistance for families’ the government promised to increase the maximum rate of FTB part B by $300 starting from 1 July 2005. Families have every right to assume that the $300 annual increase would be made available to families through their regular fortnightly family payments and that this money would start to be paid after 1 July this year. But that has not occurred.

What has occurred under this bill is that families will not actually receive the promised $300, which will now be paid as a lump sum, until after 1 July 2006, when they get their tax returns for the 2005-06 financial year—and for those of us who are a bit slow on our tax returns, obviously a long time after 1 July. Instead, the Minister for Family and Community Services announced on 9 February 2005 that eligible families would be paid a $150 bonus at the time they lodge their tax returns for the current financial year—that is, after 1 July 2005. But the $150 that the government calls a bonus is really only half what the families were promised during the election. We have seen the government swing into the old mean and tricky mode by fudging the accounting and then having the audacity to dress up the revised measures as somehow being an additional benefit for struggling families. We know what it is really about, and that is about taking the pressure off next year’s budget.

In a breathtaking display of hypocrisy the Minister for Family and Community Services continues to claim that this consolation payment of up to $150 is somehow a bonus for families. Clearly, either Senator Patterson does not understand her own election promise, which was that families would get the full $300—not $150—starting on 1 July this year, or she is being deliberately deceptive. The delayed payment of the full $300 was confirmed by officials from the Department of Family and Community Services when they appeared at the Senate estimates hearings on 16 February this year.

What is also clear is that families no longer have the choice of receiving the additional money through their fortnightly payments. The minister says that this is because of the positive response of families who received lump sum payments last year. That is obviously true for some families but it is not true for those families who need the extra money on a fortnightly basis. Taking away the choice—and that is what the government is doing—of receiving the additional money fortnightly is also contrary to the government’s rhetoric that families should have the option of receiving regular fortnightly payments or a lump sum through the tax system. The Howard government is taking away the choice that it has advocated. It is taking away the choice that has been contained in all its rhetoric on this issue for the last few years.

It is also increasingly clear that the family payments system under the Howard government is inequitable, inconsistent and unfair. In the last week we have seen yet more damning evidence that the system is not working. Families that need the most help are left to watch while Australia’s richest families continue to receive family payments. Nearly 30,000 families with annual incomes of over $100,000 receive family tax benefit part B payments, worth up to $3,000 a year during the 2002-03 financial year. At the same time, poorer families continue to be confronted with a mounting family payment debt load year after year. Imagine how those families felt when they saw reports last week that rich families earning hundreds of thousands of dollars a year were still getting family payments. While rich families are pocketing thousands of dollars in welfare, other families—needy families—have been sad-
dled with debts every year. Where is the fairness and equity in all that? The fact that rich families are being rewarded with up to $3,000 a year in obligation-free family payments highlights the failure of the Howard government to provide assistance to those families who need it most.

If the government were really serious about welfare reform then fixing this glaring inequity would be a good starting point. But there is nothing in this bill. The largess for Australia’s richest families contrasts with the government’s harsh plans to take payments away from people with disabilities, and sole parents. This inequity demonstrates why Labor remains committed to introducing a single family payment, with a consistent income test for all Australian families.

Debate interrupted.

MATTERS OF PUBLIC INTEREST

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

Education: Higher Education

Senator BRANDIS (Queensland) (12.45 p.m.)—On 2 March the Minister for Education, Science and Training, the Hon. Brendan Nelson, released an issues paper entitled Building university diversity: future approval and accreditation processes for Australian higher education. The document framed several of the policy choices which the government will be required to make during the current parliament for tertiary education in Australia. I expect that the debate which Dr Nelson has initiated will be the most important reconsideration of the role of Australian universities since the Dawkins review.

A central issue in the debate will be the centrality of the role of research in universities. Under one option under active consideration, which is canvassed in the discussion paper, a class of institutions would be recognised which would be engaged in teaching only. Research would not be regarded as an important or even a necessary role for such institutions. A model for such institutions is said to be the so-called liberal arts colleges in the United States. I do not for a moment doubt that there is an important and valuable role in post-secondary education which perhaps teaching-only institutions could fulfil.

Such institutions would in some respects resemble the colleges or institutes of advanced education which existed pre-Dawkins and which one of the effects of the Dawkins ‘reforms’ was to convert into universities. I say ‘reforms’ because I think it is now widely recognised—and it is a view which I have had for a very long time—that the Dawkins model was a deeply flawed model. It was a model which, by subjecting some 38 institutions which differed fundamentally in character, size, capabilities, levels of expertise, student needs and academic priorities to the same template, created distortions and inefficiencies and in some cases—this is, of course, the old Labor Party trademark—resulted in a levelling down of standards.

The needs and priorities of an internationally acknowledged major research institution such as the Australian National University, the University of Melbourne or the University of Queensland and those of a small institution which serves a modest student population and, due to economies of scale, is unable to offer more than a small number of courses or to compete successfully for significant research funding, are very different. I do not want to see as one of the outcomes of the current debate repetition in a different form of the same error which Dawkins made—in other words, the imposition of a false uniformity upon institutions which are of a fundamentally different character. Teaching-only post-secondary colleges, in which research and advanced scholarship do not take place, are not the same as universities and,
while they would no doubt fulfil a valuable and socially desirable role, we should not pretend that it is the same role which universities have traditionally fulfilled.

In saying that, I am very mindful of the fact that the reputation of a university is not a function of the number of students which it teaches or the number of degrees which it confers but the excellence of its scholarship and research. And, in that regard, Australians do ourselves no favours by depreciating the contribution our universities have made to higher learning. We Australians are very conscious of our country’s international competitiveness in so many fields: business, cinema and, most notably, sport. Last August, when Australia came fourth in the league table for medals at the Athens Olympics, that achievement was a source of justifiable pride and national celebration. But I wonder how many Australians are even aware of a much more important index of national excellence which was published only three months after that?

In November last year, the respected British educational journal the *Times Higher Education Supplement* published the World University Rankings, which listed the top 200 universities in the world. And do you know how many Australian universities were in the top 50? There were six: the Australian National University, the University of Melbourne, Monash University, the University of New South Wales, the University of Sydney and the University of Queensland. We only have 38 universities in this country and six were assessed to be among the top 50 in the world! The best of them, the Australian National University, was ranked 16th—ahead of such internationally renowned universities as Columbia, Cornell, Johns Hopkins, UCLA, Toronto and the Sorbonne. Other league tables have also placed Australian universities among the world’s best—and, almost uniformly, it is the Australian National University and the University of Melbourne which are adjudged the two leading universities in the nation.

The reason Australian universities have achieved such international success—success which we celebrate in our sportsmen and our actors but not, sadly, in our professors—is the excellence of their standards of scholarship and research. Of all the things Australia does well, the field of endeavour in which the world rates us most highly is our intellectual achievement. Our universities are not elitist institutions—because entry to them is by ability. But they are elite institutions because they are among the world’s best.

So, in contributing to the public discussion of the future of Australia’s universities initiated by Dr Nelson, I want to make a plea for the rigorous maintenance of those high academic standards which have won for Australian universities such international renown. Those standards will only be maintained if universities continue to be devoted to research, scholarship and higher learning. And, at a time when so much of the focus of public debate is, for understandable reasons, upon vocational education, I also want to say a word in defence of pure learning—the pursuit and advancement of knowledge for its own sake—because, without a philosophical and institutional commitment to the advancement of learning as an end in itself, there will not be the beneficial application of that knowledge to the advancement of mankind, nor will there be the intellectual excellence for which Australia’s elite universities are internationally respected.

In making that case, I am in good company. My party’s founder, Sir Robert Menzies, of all the Prime Ministers this country has had, was the one who valued scholarship most highly; who regarded the aspiration of people of modest background, such as his own parents, to see their offspring achieve a
university education as one of the noblest aspirations which a parent can have for a child. During his first term as Prime Minister, Menzies made a speech at Queen’s University in Belfast, upon the occasion of receiving an honorary degree—a doctorate of laws—from that institution on 3 April 1941. In addressing the chancellor, he said:

I have a life-long interest in the work of universities. I have, Sir, and I say it without shame, an almost passionate belief in pure learning. I have never been able to accept the view that a university is a mere technical school. If time permitted . . . I should be prepared to discuss . . . the value of pure learning in a world in which too much applied, or misapplied, learning has brought humanity to a very strange pass.

Why, Sir, do I defend pure learning? Because to me pure learning, the freeing of the mind from the inhibitions of ignorance, is one of those great moving forces that distinguish the civilized world from the uncivilized world, one of those great underlying things for which this war is being fought. And because I believe that, because I believe that this precious thing, this scholarship for which universities stand, is an essential ingredient in the freedom not only of the human mind but of the human spirit . . .

In his second term in government, Menzies did more for Australian universities than any Prime Minister has done before or since. In a speech to the House of Representatives on 26 July 1945, Menzies set out his conception of what a university should be. He said:

The university is not a professional “shop”, though I confess that in my day we used to identify our own by that mercantile name. As the word implies, the university must not be narrow or unduly specialist in its outlook. It must teach and encourage the free search for the truth. That search must increasingly extend to, but is not to be confined to, the physical resources of the world or of space. The scientist is of great and growing importance, and what we propose to do will, I believe, enable many more scientists to be trained in proper circumstances . . .

Let us have more scientists, and more humanists. Let the scientists be touched and informed by the humanities. Let the humanists be touched and informed by science, so that they may not be lost in abstractions derived from out-dated knowledge or circumstances. That proposition underlines the whole university idea. It warrants and requires a great variety of faculties and the constant intermingling of those who engage in their disciplines. To perform those vital tasks our universities must be equipped . . . to meet the challenge which, both in quality and quantity, becomes more urgent and insistent every day.

Nearly 30 years later, on 31 March 1973, another Liberal leader of great intellectual distinction, Sir Paul Hasluck—by now Governor-General—gave an address at the opening of Mayne Hall at the University of Queensland. It was entitled simply ‘On Learning’. It was subsequently published by the University of Queensland Press, but it is little known today. Sir Paul Hasluck captured in that speech, better than any Australian I can think of, the point of university education: why universities are not, in Menzies’ phrase, ‘mere technical schools’.

Allow me to finish by quoting what he said and to express the hope that, when the current debate on Australian universities is conducted, it will be informed not merely by pragmatism, utilitarianism and functionalism but also by the ideals which Hasluck so well understood and so eloquently expressed:

We live in a period when all manner of men are expressing views about education and advancing ideas about the best ways of spending more money . . . on education. An industrial and commercial society is demanding that the education system be an assembly line to produce a regular supply of skilled hired hands. Various persons who customarily speak in the name of the nation talk of the nation’s need for this or that kind of expert or specialist.

It is a long time since I heard anyone make a speech about any need for learned men. I have an inkling that if our universities or any other tertiary institution or research centre did produce a few
men and women of great learning, the nation would be proud of them just as it is proud if some other course of training, in which the nation has taken little part, produces a youngster who can swim a hundred metres faster than anyone else in the world.

Yet learning is important. It is important, not so that we can do some national boasting at the number of medals we get in some Olympic Games of scholarship, but so that we establish the quality of the whole of our educational endeavour in Australia. It is important, too, so that we shall have in Australia a body of learned men and women whose standards of judgment and level of knowledge will be such as to create an intellectual environment in which all that is cheap, shoddy, glib, ignorant, ill organized, and unverified will be revealed in its ugliness and pettiness and rejected and so that our people will become accustomed to and require a better level of learning from those who purport to instruct or to lead them. It is important, too, so that we shall be a country in which scholars in all disciplines will be recognized for their assiduous search for truth and that search will continue with constancy and faith.

How do we achieve this? I do not suggest that it can be done by selecting this or that educational institution and describing it as a hall of learning. I think rather that it can be done in all institutions and that the basic need is personal and group loyalty to the ideal of learning and devotion to the search for truth.

Administration of Indigenous Affairs Committee: Report

Senator CARR (Victoria) (12.59 p.m.)—

Today I would like to take this opportunity to discuss matters that we did not have time to discuss yesterday in regard to the tabling of the report by the Senate Select Committee on the Administration of Indigenous Affairs. I also seek to raise matters in the context of the chamber tomorrow discussing a bill, I understand, concerning the abolition of ATSIC. Let me begin by highlighting the simple proposition that a discussion of this type at this time occurs within the context of the government embarking upon radical new measures for Indigenous affairs. It is embarking upon a program which it sees and presents as a ‘quiet revolution’.

Closer examination of that program, in my judgment, highlights that, rather than a revolution, we are dealing with a counter-revolution. This government is seeking to take this country backwards, back to the 1960s—a period when Indigenous people had no effective voice in this country and liberal-minded persons were anxious about the deterioration in the social conditions of Indigenous people but did not have the political clout to actually change anything. Now I think there are still progressive-minded people, even within this government, that take the view that the social and economic conditions of the Indigenous citizens of this country are totally intolerable, yet they still do not have the political clout to actually change those circumstances.

In my judgment, the government of this country is seeking to fundamentally change the balance of power between the Commonwealth of Australia—and I mean that in terms of not just the government but also the people of this country—and its Indigenous citizens and to do so in a manner which will fundamentally disadvantage the Indigenous citizens of this country. The Prime Minister has of course waxed and waned on this matter. I can recall times, for instance just after the 1998 election, when he indicated that he was actually interested in the genuine cause of true reconciliation. He said:

... I ... want to commit myself very genuinely to the cause of true reconciliation with the Aboriginal people of Australia by the centenary of Federation. We may differ and debate about the best way of achieving reconciliation, but I think all Australians are united in a determination to achieve it.

Unfortunately, that sentiment did not last very long and, belated as it was, the commitment was short-lived. I recall that only a
little over three years ago one million Australians walked across the bridges of this nation, determined to show their commitment to the ongoing process of reconciliation. What was the government’s response? They did everything within their power so that that voice would not be heard within the corridors of power in this country.

If the government were genuine in their belief about the need for reconciliation with Indigenous people, they would have by now announced a policy which allowed Indigenous people to have a real say in the affairs that so directly concern them. If they felt that ATSIC had to go, as they clearly did, they would have announced a commitment to the replacement of ATSIC with a new representative national body chosen by Indigenous people. But what have we heard? We have heard from this government that their real interest is what they call a commitment to practical reconciliation. That is a concept that the Prime Minister floated way back in 1997, although the term has only become a catchcry within the government since 2000. This is a policy that essentially means a limited approach to reconciliation.

If one examines the basic economic and social statistics in just about every field, one will be able to see that that policy has failed. The equity gap between Indigenous people in this country and the rest of the community has in fact grown; it has widened. If you look at it objectively, you will see that not only has the gap widened in this country but the rate of performance has declined in terms of the effective improvements that have occurred in this country by comparison with similar societies such as New Zealand, Canada and the United States. The level of inequality has actually become more severe.

If you examine, for instance, the average household incomes of Indigenous people, it is apparent that Indigenous people enjoy incomes of only 62 per cent of those of non-Indigenous people. In remote areas, the incomes of Indigenous people are only 43 per cent of those of the rest of the country. The unemployment rate for Indigenous people is 23 per cent. If we regard the CDEP as a form of unemployment, as this government do—they think it is sort of ‘make work’ and it has no value—then the figure is 43 per cent for remote communities.

It is now becoming increasingly understood that the average life expectancy of Indigenous people is 20 years less than the Australian average. Indigenous males born in 1999-2001 can expect to live to the age of 56, compared to the rest of the males in the country, who can expect to live to the age of 77 years. For Indigenous females, the figure is 63 years compared with 82 years for the rest of the females in the community. I was recently in a school in the Northern Territory, and it was quite a shock to see so many young black students in a class and understand that very few of them will live beyond the age of 65. In fact, I was in a community of 1,000 people just last week. Only four of those 1,000 people were over the age of 65. I would have thought that this government would understand the importance of statistics such as that.

If they do not understand the importance of life expectancy, perhaps they understand the importance of home ownership. They seem very concerned about questions of home ownership in the broader community. Only a third of Indigenous households own their own homes, compared with nearly 70 per cent of the rest of the country. In terms of homelessness, the figure for Indigenous persons is considerably greater than that for the rest of the community, and on it goes. In terms of overcrowding and the cost of trying to rebuild the housing stock in this country, reliable estimates suggest that the cost would probably be as much as $2.5 billion. I was in
a community at Elcho Island off the coast of Arnhem Land last week. It is a community of 160 houses, housing 2,000 people. I was told by the town clerk that the town actually needs another 160 houses to meet the housing needs of that community. We hear no talk of that from this government.

Looking at education levels, once again the figures are startling. The equality gap, the equity gap, is profound, and we have seen changes to education programs which have made that situation worse. The commencement rates for Indigenous students at universities have fallen some 19 per cent. In fact, since the changes to Abstudy in the year 2000 the rates have not recovered, particularly when you compare them with the growth for the rest of the community. The same sort of pattern emerges within the school systems, where it is quite apparent that the participation and retention rates for Indigenous people are drastically beneath those for the rest of the country.

Life expectancy for Indigenous males in this country is about 56 years, compared with a Third World average of 59 years. In Papua New Guinea, for instance, the figure is 57 years. You have a better chance of living a longer life in New Guinea than in Australia if you are an Indigenous person. Indigenous Australians have a poorer performance with regard to birth weight than countries such as Mongolia, Rwanda, Indonesia, Papua New Guinea, Cambodia, Ghana and Kenya. This is an extraordinary situation where we have First World conditions for most of the country and Third World conditions for three per cent or thereabouts of our population.

What do we see in the government’s response? The government’s response is so-called practical reconciliation, which is a glorified new form of assimilationist policies that were discredited in the 1960s. Rather than learning the lessons of other nations, we are forgetting them. We are forgetting the lessons of our own nation. The government appears committed to withdrawing support from Indigenous people and withdrawing support for the capacity for Indigenous people to engage with the rest of the country. You can see that, for instance, with the program the government has introduced for parenting support for schoolchildren. It has recently proposed changes which have undermined the capacity for Indigenous parents to participate in local schools through the ASSPA program. The government says it wants to engage with Indigenous people, but it withdraws the necessary enabling measures.

The Senate committee found, throughout its deliberations, that in education, health and so many other areas the mainstreaming approach has failed but that the government is likely to extend that program, despite the lessons of that failure. It also found that there was a failure to appreciate the need for effective regional structures to allow people to participate and that the government was doing nothing to facilitate those structures. It certainly was not providing support for people to participate in the discussions about how there could be improvements in regional decision making, yet at the same time it says, ‘We’re going to keep the Torres Strait Regional Authority,’ which was part of ATSIC. It does not explain why ATSIC had to go but the Torres Strait Regional Authority will remain.

In the current environment the government has encouraged levels of uncertainty and chaos in the administration of programs. It has failed to appreciate the strength of anger and frustration that is developing throughout this country in response to its programs. Events at Palm Island in recent times and other places highlight to me how dangerous the policy we are being presented with is. Indigenous staff and corporate
knowledge are being lost from the Australian Public Service. The government has adopted an approach which presumes that we should start with a clean slate when it comes to learning best practice about Indigenous affairs with regard to public administration. It has not understood the fundamental need for genuine community participation and involvement.

The government has tried to sell Indigenous Australians a policy pup. It has failed in its so-called partnership approach because it has presented them with a bureaucratic nightmare where Indigenous people are told that, despite all the actions to disempower them, the government is now going to provide some sort of new shared responsibility, some mutual obligation. I am yet to be persuaded that there are mutual obligations and a genuine sharing of responsibilities. On top of all of that, we are seeing a dramatic assault on the land rights regime in this country. The evidence is mounting that the government has no real appreciation of or commitment to the basic rights of Indigenous people when it comes to self-determination, and that is why in this environment the committee’s recommendations are quite important. (*Time expired*)

Indigenous Affairs: Women

Senator RIDGEWAY (New South Wales) (1.14 p.m.)—Today I want to speak on the question of Indigenous women falling through the cracks of the government’s mainstreaming policy. It is appropriate that this follows on from International Women’s Day and the tabling on that day of the report of the Senate Select Committee on the Administration of Indigenous Affairs. In many ways, I think the report and the various evidence heard by the committee really demonstrate the poorness of the government’s way of dealing with this issue. What I think is often overlooked on the national political stage is the question of Indigenous women’s interests. My concern is that the government’s mainstreaming policy—this new set of arrangements—will only make matters worse.

In the process, I want to ask the Senate to consider a motion that I will recommit this afternoon which deals with the question of congratulating the organisers of an inner Sydney campaign against family violence and sexual assault against women in Aboriginal communities called ‘Blackout Violence’. Last night, I spoke about some of the problems in relation to the Redfern community, more particularly on the Block, and acknowledged that there was a need to look at ways of overcoming the problems but noted that leadership had to come from within the community itself. Certainly, I see the ‘Blackout Violence’ program as part of the leadership in recognising that there are problems and trying to overcome those difficulties in the best way that they can. Ultimately, the right sort of leadership is being shown, but what is required is support from all levels of government. I think we have to send the right message, not continually beat up the issues in such a way as to suggest that things are not changing.

The ‘Blackout Violence’ campaign used last year’s New South Wales Aboriginal Rugby League Knockout competition to publicise their program. In that case, and I think it is worth noting here in the Senate, about 1,700 Aboriginal football players from 85 participating football teams across the state of New South Wales joined the Football Fans Against Sexual Assault campaign and wore purple armbands to demonstrate their opposition to family violence and sexual assault against women. All of the participating teams were given information kits on how to prevent family violence and where to seek further help. The usefulness of that is that these are people who will go back to their own commu-
nities and spread the message and the information immediately.

The ‘Blackout Violence’ campaign is a local community initiative which has been successful through the hard work of people like Dixie Gordon, the Redfern Legal Centre, Robert Welsh from the Metropolitan Local Aboriginal Land Council, and the Inner City Domestic Violence Action Group. They continue to work to keep up the momentum of the struggle against all forms of violence against women and children in Indigenous communities. Many communities have taken note of this, particularly in Western Australia, Victoria and Queensland. They have been inspired by this particular campaign and have requested the assistance of the New South Wales organisers to apply the campaign as a national model to counter family violence.

I think we need to understand the bleak picture of violence against Indigenous women. They have to deal daily with the overwhelming impact on their lives of violence, poverty, trauma, grief and loss as well as family, cultural and spiritual breakdown. It is important to remember that Indigenous women are four times more likely than other women to be victims of murder, four times more likely to be victims of assault or domestic violence and seven times more likely to be victims of grievous bodily harm.

There is a consistent pattern among Indigenous women in prison of having been victims of assault and sexual assault at some time in their lives. The 2002 Social Justice Commissioner’s report essentially showed that Indigenous women were overrepresented in the prison system, at more than 19½ times the non-Indigenous rate, and certainly at a higher rate than Indigenous men are incarcerated in this country. In fact, Indigenous women are currently incarcerated at a higher rate than any other group in the nation. In my home state of New South Wales, Indigenous women represented 30 per cent of the total female population in custody in October 2002, despite only constituting less than two per cent of the female population of the state. Causes of the increase are complex and they can vary between jurisdictions. There was no evidence to suggest that there was an actual increase in crime that would account for the increase in incarceration rates, although I think we can fairly say that increases in police activity and changes in judicial attitudes to sentencing were also important contributing factors. As an example: in New South Wales the most significant contributing factor was the increase in the remand population. What I think is essentially being said there is that, if people lack the financial capacity to meet bail conditions, obviously they are going to end up on the inside.

The relationship between Indigenous women and violence also highlights how the separation between victim and offender is often blurred. In reality, many Indigenous people in the criminal justice system are both offenders and victims—for example, a majority, 78 per cent, of Indigenous women in prison have been victims of violence as adults. Almost half of Aboriginal women in prison were victims of sexual assault as an adult. This depressing list of statistics is the measure of many of our women’s lives. I see this in my own community and certainly in my own extended family.

Against this background and looking at the question of national leadership and national representation, which goes to the question of how we administer Indigenous affairs in this country and the government’s new experimental policy on Indigenous affairs through mainstreaming, there seems to be a vacuum in both advocacy and representation of Indigenous women’s issues. For example, addressing issues like family violence is a
shared responsibility between all the levels of government, with prime responsibility lying with health and community service agencies in federal, state and territory governments.

It is important to remember—given that tomorrow we are probably going to be debating the question of whether ATSIC remains an effective voice for Indigenous people in this country, although I dare say its demise is a fait accompli from the government side—that ATSIC funded legal and community based family violence programs across all of the states and all of the territories, and in 2001-02 it convened separate men’s and women’s roundtable meetings on family violence. The end result was the establishment of a national Indigenous working group on family violence, the formulation of the Family Violence Action Plan and eventually, in 2003, the establishment of what was called Kungkala Wakai, a national Indigenous women’s committee to ensure that all national Indigenous policies take account of their impact on women.

That committee was set up to fill the gap in national leadership roles for women and was chaired by the ATSIC Northern Territory Commissioner, Alison Anderson. I compliment her on the work that she did in this area and I hope that she continues to play a role in some form, because the membership was drawn from elected community representatives right across the country. One of the key roles for Kungkala Wakai was to develop the self-confidence of Aboriginal women to operate at the national level by bringing about positive changes in the daily lives of both women and children.

The committee saw that central to this was the need to address the issue of family violence and the impact it has on women and children within the family and the community. Unfortunately, that committee no longer meets because the break-up of ATSIC last year essentially starved it of administrative and funding support. Now there is no national Indigenous women’s committee to monitor and advise government on Indigenous women’s issues. It has become another casualty of the so-called new arrangements in Indigenous affairs. They are certainly not winning any support from government, given some of the debate that we keep hearing. But it is not just at a national representative level that these casualties in Indigenous affairs are occurring. To my alarm, my office has been informed of a number of smaller organisations that perform vital roles within their communities that seem to be falling between the mainstream cracks.

Yesterday, when I spoke on behalf of the Australian Democrats about our supplementary report to the Select Committee on the Administration of Indigenous Affairs, I raised the issue concerning the MiMi Mothers Aboriginal Corporation, based in Bowral on the North Coast of New South Wales. They are an Indigenous community organisation in one of New South Wales’s top 10 disadvantaged communities. The MiMi Mothers Corporation work to support women and families by running domestic violence and youth leadership programs. In fact, they have had remarkable success in recent years but have been restricted by a lack of independence, as they have been based in council premises. The important thing here—and I keep asking the minister and the government for some answers—is that ATSIC had approved the divestment of a housing property that was purchased by the Aboriginal Housing Corporation, to MiMi Mothers, but in the middle of the process, with the change from ATSIC and ATSIS to the new arrangements, the housing program was shifted to FaCS.

FaCS have not seen fit to honour the original decision that was taken. They have
reneged on the approval of the acquisition. They have been given every opportunity to correct this situation. I personally questioned a number of public servants during the select committee hearings, and Senator Patterson as the minister responsible is also well aware of this ridiculous decision. Yet the government keep trying to make money from MiiMi Mothers, who are just a group of mothers with children, by asking them to pay for the property. Indeed, I received a letter in the past few weeks from the government saying that they were happy to talk to MiiMi Mothers so long as the property was purchased at current market value. How that is going to occur is beyond me, because FaCS have told MiiMi Mothers over the phone—but never in writing—that they will not be getting the premises. In addition, MiiMi Mothers know nothing about the claim by FaCS that ‘FaCS are endeavouring to assist them in brokering additional funds to be able to purchase this property’.

What is highlighted here in terms of the transfer of properties is the whole question of caveats that the government have placed on these titles. This is a property that is held in freehold form by the Aboriginal Housing Corporation. They agreed that the property itself should be transferred, yet somehow, because of the way that the legal arrangements are structured, it is okay for the federal government to step in and take full control of this property, despite the fact that ATSIC’s role or interest is very limited. The Aboriginal Housing Corporation made a decision and, in my view, that should be honoured, particularly when we are talking about domestic violence and family violence and the need to look after our young. It is the very least that they can do in one of the most disadvantaged communities in New South Wales and certainly in the country.

Instead we have seen the Prime Minister, Minister Vanstone and all of the senior departmental officers describing the new arrangements as facilitating greater control by communities over their own service provision. They are using family violence as an example of why they need to implement these new arrangements, yet it is clear from the experience of community organisations and service providers that the opposite is true. So it seems to me that the process is about disempowering communities, and family violence appears to be a priority for the government only when it suits. They cannot claim that this is something they have not heard about when it has been raised on so many occasions.

This seems to be what passes for good Indigenous affairs policy these days, but it is not good enough. It is communities like Bowraville in New South Wales, and right across the country, that are suffering. Unfortunately, they have been caught up in the political debate highlighted in the media between the minister’s office and the board of ATSIC commissioners. It is sad that it has got to this stage, where it is okay to treat organisations out there in this way. What we ought to be doing when we have examples like MiiMi Mothers is showing more understanding; we ought to be telling our public servants that if we are talking about partnerships on the ground and empowering communities then there is no better way than by following through on legitimate decisions that were taken right at the start.

The new arrangements, however they will be applied, really are of paramount concern to the endeavours and interests of Indigenous women and children, from the smallest community to how we deal with it here in the national arena. I want to make sure that they are adequately represented and supported. I know that the chair of the new National Indigenous Council, Western Australian magistrate Sue Gordon—an Indigenous woman, a very capable woman—has a heartfelt re-
response to these sorts of issues, and I hope that the council has the capacity to take this up and bring it to the attention of the Prime Minister, because, quite frankly, it does need to be resolved.

Department of Defence: Accounts

Senator MARK BISHOP (Western Australia) (1.29 p.m.)—Today as a matter of public interest, I wish to raise the time-honoured issue of public accounts within the Australian Defence Force and the Department of Defence. As the Senate knows from estimates over recent years, Defence end of year accounts have again been seriously qualified by the Australian National Audit Office. We all know, understand and accept that Defence is a massive organisation. We know that it has a massive budget and has been growing in recent years. We accept that its responsibility for the nation’s defence should be and is paramount.

Having said that by way of introduction, none of it is an excuse for the parlous state of Defence accounts. I use the word ‘parlous’ deliberately because that is the description used by the former secretary of the department, Dr Hawke. In fact, over the last five years we have had a series of mea culpas from successive departmental heads. Most recently was that of Secretary Smith some three weeks ago. The attitude seems to be that if you confess you will be forgiven. Unfortunately, while it is said that we in the Senate have considerable power, it does not include that. What we have, though, is a responsibility to make sure that taxpayers’ money is properly spent—that the money budgeted is for fit and proper purposes, which admittedly is often difficult. It also means, by definition, that there is proper acquittal. That is the particular issue in this discussion.

To shorthand the issues at stake then, the principal problem that Defence faces is the discipline of accrual accounting. Again, that is nothing new. It has been in the Commonwealth for at least the last five years and, prior to that, we had several years of notice that it was coming. What is more, in that period, we also experienced Y2K when most, if not all, computer systems within the Commonwealth were upgraded. Despite this background the excuses continue. To be fair to the current Secretary of the Department of Defence, we have had the mea culpa and we have had a detailed explanation given at estimates of the remedial plan being implemented. That is great. But at the end of it, having observed this saga and read the transcript over successive years, we on this side, at best, are not filled with confidence that the outcome sought will be achieved.

When we look at the issues they seem to be relatively simple. So let us look at a few. One common element required by accrual accounting is that at any one stage you know the total value of your business. That includes, by definition, the value of all assets. Defence claims that its assets are so massive that this is by definition an enormous task. The fact may be that Defence is the largest property owner in Australia, but so what? The property has been on the books in some cases for well over a hundred years. Further, successive governments over at least the last 15 years have been poring over that estate to see what could be sold off. Some has been sold off to the benefit of revenue. So in reality, it is hard to believe that the Defence estate is neither well known nor understood. The rather feeble excuse given at estimates was of some minor administrative hiccup with the Australian Evaluation Office. I must say, by way of observation, that that is a bit cute. The fact remains that the values should have been attributed many years ago.

Another item of value cited at estimates was that of car spaces for senior offices—apparently there are several hundred of them.
So be it, but when you think about it, it does not seem to be a big deal. I concede, however, that when it comes to valuing other assets the task is more complex. The difficulty is the same though—this should not be a new problem. It should have been attended to years ago. As we have been told, it is not a problem of quantifying assets or identifying their location; it is a problem of properly calculating the depreciated value of the assets. For unique high-tech ordnance this might be understandable, especially where there have been or there are continuing upgrades. But for the great bulk of stock on hand, whether boots or battleships, there should have been a book value established long ago.

At the heart of the problem it seems are IT systems. The world of information technology, as we know, is inordinately complex. We all know that when a new system is designed it is obsolete before it is rolled out. Billions of dollars are wasted around the world every year on aborted systems of development. Every time a new development comes out, attempts are made to tack it onto the existing system. Compatibility is always an issue, particularly for data. Where there is a lot of data, there are always problems. We know that Defence employs a veritable army of IT contractors working on these integration problems alone. We also appreciate that in some cases the goalposts keep shifting. As I said, Y2K was a monster. Accrual accounting too brought the need for new systems. This is not something which can easily be taken off the shelf and just plugged in. We accept as well that there are new international accounting standards being applied. Compliance is therefore more complex and continues to be more complex.

Still, having entered those caveats, none of this is anything new or could not have been reasonably anticipated. There are plenty of other organisations with massive transaction loads which manage on an ongoing basis without these problems. True, they dispense cash and do not retain assets for great periods of time as Defence does, but there are people to be paid and leave systems to manage. In some public and indeed private companies tens of thousands of employees are on the books. Their wages have to be paid every week or fortnight and their entitlements and records have to be maintained. This again is not new. Every single organisation in the world has to manage a personnel system. So why is Defence so different that its records are in such a poor state? This problem is legendary.

In my capacity as shadow minister for veterans’ affairs I know, from the repeated correspondence I receive, what a bind it is for anyone wanting to access personnel records. Ironically, in this modern age, paper records seem to be the best. Electronic records are either all over the place, unable to be located or inaccessible. In the case of the RAAF, I recall that a significant volume of records stored on computer were lost. For at least the last five years we have been assured that the new system of health keys was the answer to our prayers, likewise with personnel records. But none of this has been completed. The answer clearly is allocation of resources, and that is the reason given by senior managers as well, even to the extent that the assertion is made that none of this should ever interfere with operational capability. In a nutshell, there will be no capability if there is no financial management—nor should we in the Senate ever let this come to pass.

With a burgeoning budget surplus and with increasing and regular levels of overseas deployment, something needs to be done as a matter of priority to get the problem fixed once and for all. Defence should not have to absorb extra operational costs from their administrative base. This is a
theme to which we on this side will be returning frequently in the forthcoming months. We acknowledge up front that the intentions are good, but we note in passing that the same answers, the same reasons, the same intentions, have been put on the public record for many years, and we conclude by observing that action to date is both slow and inadequate.

Australian Broadcasting Corporation

Senator BROWN (Tasmania) (1.39 p.m.)—In an ABC radio Triple J interview on 12 November last year, presenter Steve Cannane was interviewing Father David Smith who, it is well known, was a friend of Mordechai Vanunu, who was jailed for a long period of time in Israel for publishing secrets about Israel’s stockpiling of nuclear weapons, amongst other things. Amongst the questions that Mr Cannane put to Father Smith was this: ‘Eighteen years ago, he— that is, Mordechai Vanunu—‘blew the lid on weapons of mass destruction, this thing that’s such a big topic in our world today. What’s he think about what is going on at the moment?’ One would think that a very fair and balanced question to ask of Father Smith. However, move in the radical right with its penchant for attacking the ABC and this concern, which we must all share, that where the media—and in particular the public media—is under attack it be fair and that there be a proper opportunity for debate of the matter but, at the outset, that it be based on factual material.

What has happened here is that a senator of this parliament has used that interview by Mr Cannane on Triple J to invent a circumstance which never existed. He has put into the mouth of Mr Cannane words that were never used, to insult and defame this ABC interviewer, his program, his station and the ABC in a way which is totally reprehensible and needs redress, so I bring it to the Senate’s attention. At Senate estimates on Monday 14 February this year, in a question on notice to the Communications, Information Technology and the Arts portfolio—in fact, question No. 52—Queensland’s Senator Santoro put this—and it is on the public record, under parliamentary privilege, of course—under the heading anti-Semitism:

On 12 November Triple J presenter Steve Cannane was interviewing Father Smith who claimed to be a close friend of a former Israeli nuclear technician who has been convicted of treason for providing Israeli state secrets to a British newspaper and imprisoned for 18 years for this offence. No transcripts are provided for Triple J on-air interviews, but I am informed that the gist of Cannane’s remarks was this: ‘Father Dave, why did those awful Jews lock up this great man? Why is it okay for Jews to have a nuclear arsenal when it isn’t okay for Iraq?’ There was no balance sought from a suitable source—for example, from the Israeli Embassy in Canberra.

I am continuing to quote the question on record from Senator Santoro. He goes on:

Since this propaganda of anti-Israeli and arguably anti-Semitic propaganda was broadcast in the week in which the ABC announced it cannot fund the broadcasting of opera, is there something you would like to tell us about the real priorities of the ABC?

What Senator Santoro has done in injecting those words, in particular ‘awful Jews’, into the mouth of an ABC journalist in an interview who never used those words—and from all I know never would—is beyond belief. It is beyond belief that a senator could do that. In looking at this matter, the best explanation for this traducing of an honourable journalist at the ABC, and the ABC itself, is a blog called Jealous, which is run by someone named Jonathon located on the Gold Coast in Queensland. Jonathon describes himself as a boring corporate lawyer type who has a penchant for current affairs and politics. He thought he would join a couple of friends in publishing his thoughts.

CHAMBER
On that site, which is labelled ‘Late night thoughts of a conservative’, is an early piece of praise for Senator Santo Santoro, and when you move further into the site there is an attack on Triple J and Mr Cannane. This anonymous ‘Jonathon’ from the Gold Coast claims that he was driving along and heard the Triple J interview and, to the best of his recollection, then quotes Mr Cannane as saying, ‘Father Dave, why did those awful Jews lock up this great man?’ It is, after all, a blog, and it is an invented recollection of words that were never used—but we have to look at that invention.

This is an incredible calumny which was unchecked by Senator Santoro. Senator Santoro is a trenchant critic of the ABC. Most recently he had a column in the Australian which took on the ABC for getting it wrong and then not apologising. I think that was as recent as the 4th of this month. This attack is appalling and unprincipled. The damage from this attack could be so great that there is nothing more important than for Senator Santoro to make a full retraction and apology in the Senate and withdraw that question from public notice. Of course much more could be done, but it is extraordinarily important that he answer for the terrible wrong that has been done here. It is unconscionable, it is unprincipled and there is no excuse.

Senator Ian Campbell—Did you advise him that you were giving this speech?

Senator BROWN—Senator Santoro and the government—which is now interjecting—should see that there is an immediate remedy for the wrong that is being done. It reflects on the Senate every minute that that question is left on the public record.

Senator Ian Campbell—Did you let him know that you were going to make this speech?

The ACTING DEPUTY PRESIDENT (Senator Knowles)—Senator Campbell, do you wish to move the suspension?

Senator Ian Campbell—I was interjecting to see whether Senator Brown had shown Senator Santoro the basic courtesy that all senators show when they are about to ask questions of other senators, and that is to give senators the courtesy of advising them that they are going to make a speech—and Senator Brown, for the first time in his career, has had lockjaw.

Sitting suspended from 1.48 p.m. to 2.00 p.m.

MINISTERIAL ARRANGEMENTS

Senator HILL (South Australia—Leader of the Government in the Senate) (2.00 p.m.)—by leave—I inform the Senate that Senator the Hon. Ian Macdonald, Minister for Fisheries, Forestry and Conservation, will be absent from question time today and until and including Monday, 14 March. Senator Macdonald will be representing the Australian government at the ministerial High Seas Task Force on illegal, unreported and unreported fishing, meeting in Paris, and the food and agriculture ministerial meeting on illegal, unregulated and unreported fishing in Rome. It is a tough job, but somebody has to do it! In his absence, Senator Abetz will answer questions for the Fisheries, Forestry and Conservation portfolio, and Senator Kemp will answer questions on behalf of Agriculture, Fisheries and Forestry.

QUESTIONS WITHOUT NOTICE

Economy: Foreign Debt

Senator SHERRY (2.01 p.m.)—My question is to Senator Minchin, the Minister representing the Treasurer. I refer the minister to his answer to my question yesterday seeking an explanation of the dramatic increase in Australia’s foreign debt to historic levels, which he explained was due in part to
Australia’s high growth rate relative to its trading partners. How can he claim this when Australia’s growth rate of 0.1 per cent in the fourth quarter was amongst the lowest in the developed world? In relation to his other excuse that high foreign debt was the fault of a strong Australian dollar, is the minister aware that the value of the Australian dollar, as measured by the Reserve Bank’s trade weighted exchange rate, was actually unchanged over the year 2004? Given that these two attempted excuses have bitten the dust, does the minister have any other explanation for Australia’s ballooning foreign debt?

Senator MINCHIN—It is remarkable that Senator Sherry should purport to have a much greater insight into the state of the Australian economy and the causes of our current account deficit than the International Monetary Fund. What I relied on yesterday was a reference to the IMF’s recent article IV report on Australia, which said that the widening current account deficit mainly reflects ‘the sharp appreciation of the Australian dollar and the relatively strong cyclical position of the economy’. That is what I relied on. I would much rather rely on the IMF than on Senator Sherry or anybody else in the opposition. For the opposition to be credible on economic matters, surely they must recognise that the build-up of a current account deficit and foreign debt is over a long period of time. It is ridiculous to suggest that, because the national accounts for the September to December quarter showed 0.1 per cent growth, therefore an argument put by the IMF and every other single expert commentator about the relatively strong cyclical position of the Australian economy does not have foundation. That in itself is laughable.

Senator SHERRY—Mr President, I ask a supplementary question. Minister, the reasons you advanced yesterday in other answers, which I have referred to, were just plain wrong. Given that both your explanations yesterday were wrong, how can the Australian people have any confidence in the Howard government’s ability to develop policies to reduce Australia’s record high foreign debt?

Senator MINCHIN—I do not want to go on repeating myself, but I do rely on the IMF and others to demonstrate that the critical reasons why the current account deficit is growing do relate to the appreciation of the dollar, especially vis-a-vis the United States dollar and the countercyclical position of the Australian economy, which has been growing faster than most other economies. In fact the growth in the Australian economy from 1991 to 2004 was the highest in the OECD. That is a recognised fact, and it is the fundamental basis for our current account deficit position.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I would like to draw the attention of honourable senators to the presence in the President’s gallery of a former distinguished Tasmanian senator, the Hon. Brian Gibson. Welcome back.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Workplace Relations: Building Industry

Senator SANTORO (2.04 p.m.)—My question is to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. Is the minister aware of the findings of the Cole royal commission which exposed widespread union thuggery, intimidation, violence and corruption in the building and construction industry? Will the minister update the Senate on what actions the government is taking to reform this industry? Is the minister aware of any alternative policies?

Senator ABETZ—I thank Senator Santoro for his question and for his ongoing
interest in the area of workplace relations. I note in passing that he was a most distinguished Minister for Industrial Relations and Training in Queensland, with a special emphasis on apprenticeships. Senator Santoro is absolutely right: Justice Cole did find that the building and construction industry in Australia was riddled with intimidation, thuggery and unlawful behaviour. The findings of the royal commission present a most compelling case for the reform of the building and construction industry.

Unlike the smorgasbord of former shop stewards opposite, the government have heard the pleas, especially from small and individual contractors. That is why we will be doing something about this situation to rectify the concerns—by introducing a bill that will do two things. Firstly, it will increase the penalty provisions in the Workplace Relations Act and, secondly, it will finally give the building industry task force the powers it needs to effectively prosecute illegal activity. There should be no doubt in the minds of employers and unions that the government are serious about taking action in the building and construction industry. There is an old African saying: when two elephants mate, the grass gets trampled. When big business and big unions get together, the small and independent contractors, the workers and the apprentices are the ones who get trampled. We as a government are willing to ensure that that no longer occurs.

If those in industry on either side, be it in big business or in big unions, think that somehow we are not serious about this, I indicate to the Senate that the proposed increased penalties are up to a maximum of $110,000 for a body corporate and $22,000 in other cases. No Australian ought to be above the law and no Australian union ought to be above the law either. Unlike those opposite, we will not turn a blind eye to the scandalous situation that was exposed so cogently by the Cole royal commission.

Opposition senators interjecting—

Senator ABETZ—Those opposite are still interjecting. They are still in denial about this, as they are on Medicare Gold and their forest policy. If they want to become a relevant party for the Australia of 2005 and beyond, they will have to make some changes to their industrial relations policy, which includes telling all their parliamentarians to vote against the bill that we are about to introduce. Their policy was formulated at their last ALP conference, where over 50 per cent of the delegates were trade union officials or former trade union officials, so of course they were told how to vote on this important piece of legislation. The simple fact is that Labor, if they want to, can now send a clear signal to the Australian people that they are relevant and are going to cut themselves free from the Norm Gallaghers, Craig Johnston and Doug Camerons of this world, but they do not want to do that. They somehow suffer from the Stockholm syndrome. We could call it the ‘craven captives of the construction commissars condition’. That is what they on that side suffer from. We as a government will overcome the situation and, as a result, the building and construction industry will be a lot better off.

Economy: Foreign Debt

Senator MARSHALL (2.09 p.m.)—My question is to Senator Minchin, representing the Treasurer. Does the minister recall telling the Senate in June 1995 that the then Labor government ‘fails to deal with our major economic problems, fails to deal with the massive foreign debt of $160 billion and fails to deal with the problem of the current account deficit of $27 billion’? Can the minister now confirm for the Senate that, 10 years later, foreign debt has more than doubled to $422 billion and the current account deficit has
doubled to $54 billion? Given that the minister is hoist on the petard of his own words from a decade ago, what is the minister’s new explanation for the Howard government’s failure to deal with, in the minister’s own words, its ‘major economic problems’?

Senator MINCHIN—Despite my enormous and significant memory, I do not recall what I said 10 years ago—I am sure you recall what you said 10 years ago, but I do not, but I will take your word for it—but they were very wise words. The disastrous economic situation created by the Labor Party involved what is often referred to as the ‘twin deficits problem’. Not only did we have the significant build-up in the current account deficit under the Labor Party but we were also facing a massive fiscal deficit at the same time, and that is an extremely difficult situation for any country to be in. I think the United States know that too, and many are quite concerned about the United States’ position because they have a twin deficit problem.

The key difference between now and 1995 is the fact that, while the current account deficit is in a situation where we quite openly acknowledge we would like to see it low and contained, the government has played its part by ensuring that its finances are in surplus and that it is running surpluses to ensure that as a federal government it is contributing to national savings while the private sector engages in the borrowings and the level of activity which have caused the current account deficit position that we have.

While I am on my feet on that issue, I also point out to Senator Sherry, in relation to what I said about the causes of the current account deficit situation that we have, that you have not only the IMF asserting, as it does, that it is largely a result of the facts that the Australian economy is growing much faster than our trading partners and the dollar is appreciating. In relation to the current account deficit and foreign debt, the OECD, in its recent report, which was by and large endorsed by the Labor Party, said:

The desynchronisation of the Australian and global economic cycles, effective exchange rate appreciation and the drought-effect on rural exports led to a substantial widening of the current external deficit during the past three years.

So we have the IMF and the OECD both pointing out the reasons why the current account is in the position that it is in, but that is not good enough for the Labor Party because they know much better.

The other point that should be made about foreign debt and the current account deficit is that, like households, it is a matter of your debt servicing capacity. Another very big difference between the position that we had under the Labor Party and the position that we have now is the nation’s capacity to service that debt. The debt servicing ratio in Australia for foreign debt was 9.3 per cent in the December quarter, well below the peak of 20 per cent recorded under Labor in 1990.

Senator MARSHALL—Mr President, I ask a supplementary question. Does the minister recall telling the Senate in June 1995: ‘A high current account deficit and high foreign debt affect our daily lives. They cause the interest rates we pay on home loans and everything else to be higher than they would otherwise have been. Clearly, high foreign debt does increase interest rates.’ Given that foreign debt has now doubled, does the minister stand by his longstanding claims that higher foreign debt means higher interest rates?

Senator MINCHIN—Short of giving a lecture on economics—and I am happy to do that—one must look at the total situation that you face. The fact is that under the Labor Party, with interest rates at 17 per cent, you had the situation of massive fiscal deficits
and a build-up of debt of $70 billion in five years. That was what put enormous pressure on interest rates. Under the Labor Party we had interest rates up around 17 per cent. We have been running an economy such that interest rates are down in the six- to eight-per-cent band. I would also make the point that the government’s share of foreign debt has fallen from 17.2 per cent when we came into government to just 4.7 per cent today. We are taking the pressure off interest rates that the Labor Party in government put on.

National Security: Terrorism

Senator BRANDIS (2.15 p.m.)—My question is the Minister for Justice and Customs, Senator Ellison. Will the minister update the Senate on the work being done by the Australian government in the area of counterterrorism?

Senator Chris Evans—And anything else you’d like to talk about!

Senator ELLISON—The opposition might think this is a rather flippant subject but the war we wage on terrorism, nationwide and internationally, is of great concern to all Australians and, of course, the international community. Senator Brandis asked a very good question in light of unwarranted criticism in the press in relation to the efforts of people like the Australian Federal Police. You just have to look at the Bulletin today to see an article without foundation which really is an unfair attack on a fine organisation such as the Australian Federal Police—a body which is at the forefront of protecting Australians against terrorism and which has been working both nationally and internationally in the fight against terrorism.

Senator Brandis was correct to ask for an update in relation to counterterrorism because a lot is being done by the Howard government in the fight against terrorism. We have more than doubled funding to ASIO. We have increased by 111 per cent funding to Customs, and in that is funding for its role in counterterrorism. In relation to the Australian Federal Police, we have increased funding since coming into government by 270 per cent. A good deal of that is involved in counterterrorism.

Of course, we have seen the Australian Federal Police doing a magnificent job in the region and many people really do not give much acknowledgment to that. They should really be made more aware of what we are doing in the region. For instance, there was the response to not only the Bali bombings, which is widely known, but also the Marriott bombing. There was the response by the AFP to the bombing of our embassy in Jakarta and the rapid responses in places like the Philippines in relation to bombings that have taken place there. The people who we have located offshore in those countries and in the region face danger and are undergoing a very difficult job in fighting terrorism with the cooperation of our near neighbours. That is done by the Australian Federal Police and other Australian personnel as well.

In the last election we committed to fighting terrorism at its source. We committed to the establishment of two new counterterrorism regional engagement teams in the Australian Federal Police as well as two counterterrorist criminal intelligence teams and two dedicated counterterrorism surveillance teams, all to work in the region. The Australian Federal Police Commissioner, Mick Keelty, has said that we are implementing that as I speak. We are putting that in train in the region and delivering on that election commitment.

It is therefore disappointing when you see articles in the Bulletin which unfairly attack activities of the Australian Federal Police. The fact is that domestically we have had five people charged with terrorism related offences. One of those has been convicted by
an Australian court and the other four are before Australian courts. We make no apology for a robust approach to fighting terrorism. The Australian Federal Police have acted within the law and appropriately, but we make no apology whatsoever for the robust action that has been taken. It has been necessary. You have seen five people charged with terrorism related offences in this country, one of them having been convicted. I am not going to go into the details of those four remaining cases as they are before the courts. I would caution journalists, when they are writing about pending criminal court cases, to exercise some caution in their remarks.

**Workplace Relations: Workers’ Entitlements**

**Senator WONG** (2.20 p.m.)—My question is to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. I refer the minister to the recent collapse of Walter Construction Group, which has left non-construction employees reliant on the government’s General Employee Entitlements and Redundancy Scheme for any redundancy entitlements. Is the minister aware that some of these employees have worked for Walter Construction Group for over 40 years? Isn’t it the case that, under the award system, employees are entitled to up to 16 weeks’ redundancy and in some cases more? Can the minister therefore explain why, under the government’s GEERS scheme, employees have their redundancy capped at just eight weeks, regardless of how long they have worked for their employer?

**Senator ABETZ**—I indicate that the government is actively monitoring the progress of the Walter Construction Group administration. The government’s concern is to ensure that any employees terminated because of the insolvency have their outstanding employee entitlements met. However, the primary responsibility for entitlements must always remain with the employer.

The Howard government is proud to have been the first government in Australian history to address seriously the issue of employee entitlements lost in cases where the employer is unable to make these payments. In reference to the GEERS scheme, I understand that the state Labor governments are somewhat reluctant to come on board to assist us in a very important social justice initiative. This initiative is something that the federal Labor government did not do in its 13 years. The workers of Australia had to rely on the election of the Howard Liberal government to get some social justice in these sorts of circumstances.

For the Labor Party to now come into this place and seek to champion the cause is somewhat two-faced, because when they had the opportunity they did not do it. Their state colleagues in government all around Australia in the states and territories have not assisted us in this regard. Through its basic entitlements scheme, GEERS and its predecessor, the employee entitlements safety net scheme, the federal government has delivered over $237 million in assistance to over 37,000 Australian workers.

I am advised that the Walter Construction Group appointed Korda Mentha as controller and administrator on 1 February 2005, just a little over one month ago. I understand that the administrator has indicated that it will sell off the profitable operations of the group. The Commonwealth stands ready to provide GEERS assistance to eligible employees of the Walter Construction Group who are made redundant. The Commonwealth will then stand in the shoes of the employees and seek to recover those funds through the insolvency process. This is a central tenet of GEERS and is clearly understood by insolvency practitioners.
The advice from the department is that the administrators need to protect the Commonwealth’s right to recover taxpayer funded GEERS advances in the event that moneys become available from the administration. The department is awaiting a response from the administrators. I understand that the administrators have estimated the entitlements owing to the group’s employees as being in the order of $24 million and that the call on GEERS funding could be around $12 million. I also understand that the administrators’ preliminary estimate is that there will be between $17 million and $25 million in recoverable assets. I am informed that approximately 350 employees have been made redundant, with the possibility of more to follow. The department has so far received 200 claims for GEERS assistance from former Walter Construction Group employees. I am aware that the administrators have contacted the department and indicated that they propose to hold the second creditors’ meeting on 30 March 2005. They have also indicated that they are likely to place the company into liquidation.

In relation to the award, I simply indicate to Senator Wong and the Senate that, under the award, but for our legislation, if the company went bankrupt they would have no redress whatsoever. At least under our scheme they have a substantial redress. (Time expired)

Senator WONG—Mr President, I ask a supplementary question. Minister, is it not the case that the only workers who were ever paid their full entitlements by the Howard government were those made redundant by Stan Howard? Is this a record that the Howard government is proud to keep intact?

Senator ABETZ—Let us just assume for a moment that what Senator Wong is saying is right. Then the Howard Liberal government has the record of paying at least one lot of employees their full entitlements, because under Labor not a single one got their full entitlements, did they? No, they did not, Senator Wong. So your policy position is to condemn us for doing something for one company and then putting in a scheme that assists every other Australian worker when you failed to do it when you had the possibility of doing something during your 13 years in government. Apart from that, each and every state Labor government in this country has refused to come on board with this very important social justice scheme. So the Labor Party can call out social justice all the time, but we actually do something about it.

Crime: People-Trafficking

Senator GREIG (2.25 p.m.)—My question is to the Minister for Justice and Customs, Senator Ellison. Can the minister confirm that there are at least two women currently in Villawood Detention Centre and a further five who have been deported from Australia, all of whom claim to be victims of sex trafficking and some of whom have provided information to the police about those responsible for the crimes against them? I ask the minister: given Australia’s obligations to protect the victims of trafficking, can he explain why these women are being treated as illegal immigrants rather than as victims of a serious crime? Does the government have any plans to unlink the protection of trafficking victims from the extent to which they are able to assist police? If not, why not?

Senator ELLISON—Senator Greig raises an important issue and one which this government has been working actively to address with a program of just over $20 million in relation to combating sex trafficking in the region and in Australia. The Australian Federal Police has been doing very good work in this regard.
In relation to victim support, I might point out that we have individual case management for those people, especially women—and they are, for the moment, all women—who have been victims of or are alleged to be victims of people trafficking. That has been managed, I understand, by the Office for Women within the Department of Family and Community Services since January last year.

I understand that we have 42 suspected victims of trafficking who have participated in the program, which is being assisted by a company called Southern Edge Training.

I understand that they are at various stages in relation to those cases. I do not have the details with me. Senator Greig has raised the issue of Villawood and the women who are there. I will look into that and get back to him with any information that I am able to provide. But I can say that the government certainly regards this as a serious issue. It is one which we are working in the region to address. We have posted an immigration official in South-East Asia and we also have Australian Federal Police working overseas on this very issue, and we have a number of prosecutions which are pending. In fact, I think we have brought about the first charge of sexual servitude in Australia. So I think that, certainly from a law enforcement point of view, we are seeing some positive results. But, in relation to the information that Senator Greig seeks, I will take that up and see what I can get back to him with.

Senator ELLISON—We have made it very clear that, if anyone can assist the Federal Police in their investigations, we are very anxious to have that assistance. It may be that a person who may have come here before the legislation was introduced may still have information that is of assistance. I do not comment, of course, on individual cases. That is something that I will take up with the authorities and get back to the Senate on as best I am able. Can I just say that, for obviously reasons, we do not go into individual cases in the public arena. But, as I understand it from the Australian Federal Police, if anyone can give constructive evidence that can be adduced in a court of law, we are very interested to have their assistance.

Telstra: Services

Senator LUNDY (2.29 p.m.)—My question is addressed to Senator Coonan, the Minister for Communications, Information Technology and the Arts. I refer to the ACCC’s recent decision to withdraw its competition notice and settle its dispute with Telstra over the broadband price squeeze initiated by Telstra in early 2004. Can the minister confirm that the settlement contains no admission of guilt by Telstra and no penalty to deter Telstra from engaging in such practices in the future? Is the minister concerned that after a year of investigation the ACCC decided to accept such an outcome, despite ACCC chairman Graeme Samuel’s view that ‘Telstra’s conduct was likely to have been in breach of section 151AK of the Trade Practices Act 1974’? Finally, does the minister stand by her comments yesterday that the agreement between Telstra and the ACCC proved that the regulatory regime worked effectively?
Senator COONAN—I thank Senator Lundy for the question. The situation with the competition notice and how it was proceeded with and settled is a matter of confidentiality between the ACCC and Telstra, and I am not at liberty to say anything other than what is in the public domain. However, my understanding is that, as is often the case with these matters involving the settlement of these kinds of disputes, there is an outcome achieved and one of the bargaining points is that there is no admission as to liability. That saves a great deal of further forensic and other time on the part of the regulator when there may be some issues that are difficult to prove. However, that is supposition on my part. I am simply saying that what is in the public domain is in the public domain.

As to how effectively the competition notice is working, this is the first time that the processes around the competition notice have been tested. Whilst I think it does show that the ACCC has sufficient powers to be able to take an action of the kind involved in a competition notice, and the subject of the competition notice in this particular instance was ADSL broadband pricing, there probably are some lessons to be learned as to whether the process was as efficient as it could be and whether it warrants any changes of a procedural or process nature. It is something I am taking into account, together with other matters that I have under review as to the adequacy of the current regulatory regime. When you look at the current regulatory regime, I think it is very important that these processes work as efficiently as possible, that the regulator has sufficient power and that the process works sufficiently to be able to deal with the kind of anticompetitive conduct that was publicised in the case of the recent competition notice, the parties to it and how it was dealt with.

However, it is only part of looking at the regulatory regime. I must say that I think that the whole competition regime that was put in place in 1997 and amended more recently has served us reasonably well. It has enabled the development of competition and the growth from about three telecommunications providers to about 100. The economy is some $10 billion bigger than it would have been if the competition regime had not been put in place and deregulation had not occurred. However, that is not to say that, as one moves into looking at extraordinary technological change and how it might best serve the nation, it is not appropriate to see whether adjustments need to be made to the regulatory regime. It is appropriate to ask what we might be able to do to enable, for instance, the roll out of new networks. It is true that the existing access regime very much provides for a network that was already in place before competition and access to the network was even thought of. I think some of the challenges relating to competition and the future of telecommunications relate very much to the roll out of new networks and how that should be regulated. Within that context, Senator Lundy, I do stand by my answer that I think it is working reasonably well, but I do think it needs to have some further input coming out of the process. (Time expired)

Senator LUNDY—Mr President, I ask a supplementary question. Notwithstanding the minister’s obviously optimistic outlook, I acknowledge the question she herself raises about the processes involved. So let me ask as my supplementary question: does the minister agree that the settlement makes a mockery of competition law in Australia and amounts to no more than a slap on the wrist for Telstra? Does the government now accept that the current regulatory regime is inadequate to restrain Telstra’s market power, and will the government now give a commitment
to strengthen part XIB of the Trade Practices Act to rein in Telstra’s potential to abuse its market power after the disastrous outcome in the broadband case?

Senator COONAN—I thank Senator Lundy for the supplementary question. As I said, the situation is that I think it is appropriate to look at the process surrounding the handling of the competition notice. It was the first time that it and the processes around it had been tested, and I have said that I think it is appropriate that we consider it. As to the rest of Senator Lundy’s supplementary question, I certainly do not accept a number of the assumptions that were built into it. Whilst I have heard it said, I think by Senator Conroy, that it amounts to a slap on the wrist or something of that nature, it certainly does not do that. There is a competition regime, and a number of issues to do with the operation of the whole of the competition system in telecommunications need to be reviewed, but I certainly would not accept Senator Lundy’s judgments. *(Time expired)*

Education and Training: Funding

Senator LEES (2.36 p.m.)—My question is addressed to Senator Vanstone, the Minister representing the Minister for Education, Science and Training. Minister, I acknowledge that the Commonwealth and the states are initiating a number of measures to ease the shortage of tradespeople across Australia—establishing technical schools, VET in Schools et cetera. However, two of the main inhibiting factors that prevent young school leavers from acquiring these skills are the cost of the courses at TAFE and the adequate funding of TAFE so that courses can actually be offered. So I ask: what is the federal government planning to do to improve access for those who wish to attend TAFE but who have very limited resources?

Senator VANSTONE—Senator Lees, I do have two answers on file here and I am not sure that I can give you both of them in the time available. But what I am not able to get to I will subsequently send you, in any event. One question relates to the funding of TAFE. There seems to be something wrong with this file, so that is the one I will send you because it is not in the file. Another one here deals with another issue.

Senator Carr—That’ll do. Why don’t you read that out?

Senator VANSTONE—Senator Carr is a bit short on amusement at the moment, Senator Lees.

Senator Carr interjecting—

Senator VANSTONE—I am glad about that, Senator Carr. I am very happy to keep you amused; it does not take much, of course. Senator Lees, I will give you these answers in full, because there is a bit of riff-raff here taking up a bit of time.

An issue has been raised as to whether we would look to extend some sort of HECS to TAFE courses. I assume that is the sort of thing you are referring to in asking about access to TAFE because of the cost of the fees. Higher education, nonetheless, is our responsibility; however, under the Constitution, the operation of VET, including the provision of any HECS type scheme, is a state responsibility. We so often see this—the states having responsibility for something but not necessarily pursuing it. I understand that some states are looking at introducing a HECS style scheme, which may be of assistance to young Australians who want to do TAFE. But that is a matter for the state governments.

I am told that Access Economics last year revealed that fee increases—reported at 300 per cent in New South Wales, at 50 per cent for new apprentices in South Australia and at 25 per cent for all students in Victoria—would dissuade 97,000 students from enrolling in TAFE between 2004 and 2006, which
includes 74,000 in New South Wales and 20,000 in Victoria. In most instances, those increased TAFE fees are not passed back to the TAFE and instead are returned to consolidated revenue for the states. That, Senator Lees, as you would be aware—it is probably why you have raised the issue—is a very important issue. In a number of areas—and this is just one of them—the states collect revenue and then do not spend it in an appropriate fashion. One example is the stamp duty that states are now collecting as a consequence of a property boom; nonetheless, they are not doing enough for low-income housing—for people wanting to buy a house by way of concessions and for people who buy houses in the lowest quartile. We have here an example of tremendous increases in TAFE fees, which one might accommodate if the money were going back into TAFE education, but, as I am advised, in most instances—so clearly there are some exceptions—the money is going back into general revenue.

The Australian government has increased overall VET funding by nearly 60 per cent—about 58 per cent—since 1995-96. This year it will spend a record $2.1 billion on vocational education and training. By contrast, in 2004-05 most of the states and territories cut their training budgets: New South Wales by 2.4 per cent in real terms and other states in another fashion. Unfortunately, the states and territories rejected the Australian government's offer of a new agreement, with a 12.5 per cent increase. That offer, if it had been accepted, would have created up to 71,000 new training places. All states, as I am advised—and this information was updated on 9 March—have refused the offer.

Senator LEES—Mr President, I ask a supplementary question. I thank the minister for her answer. Minister, given the recent comments from other ministers regarding skilled immigration—and given the level of interest in this area, isn't the Commonwealth prepared to at least look at a scholarship system for students from low-income families? In particular, I point out to the minister the unemployment rate of teenagers in the southern and northern suburbs in our own state, which is over 30 per cent. So I ask again: Minister, given the Commonwealth's recent acknowledgment that a serious issue facing this country is that we do not have enough tradespeople, is the Commonwealth government prepared to do something else about it?

Senator VANSTONE—Thank you for the suggestion, Senator Lees. I will pass it on to the minister and see whether he will give you a direct response.

Telecommunications: Competition Reforms

Senator MOORE (2.42 p.m.)—My question is addressed to Senator Coonan, the Minister for Communications, Information Technology and the Arts. Is the minister aware of a recent research report by Citigroup Smith Barney on prospects for competition in the Australian broadband market? Doesn't this report conclude:

... the broadband end-game will resemble more of a monopoly or an oligopoly with Telstra dominating both the retail and the wholesale market, assuming no major changes to the regulatory regime ...

How does the minister respond to the report's conclusion that, in the future, 79 per cent of Australian broadband consumers would be served by Telstra DSLAMs and that Telstra would have 85 to 90 per cent of the market? In light of this report and the recent broadband competition notice disaster, will the minister now accept that the current regime is failing to promote sustainable
competition in our Australian broadband market?

Senator COONAN—I thank Senator Moore for the question. I wonder whether Senator Moore really believes that there has been a broadband disaster. If she does, I really wonder whether she has been watching and listening over the past few months, during which time broadband in this country has simply grown exponentially. The number of broadband users has grown from something like— and I do not have the precise figure in front of me—400,000 in March 2003 to 1.5 million; that is the most recent figure. It cannot be said that Telstra has all of that market.

What Senator Moore may not understand is that the government has assisted the market to ensure that broadband can be rolled out to Australian consumers in non-commercial areas where otherwise there would be no incentive for any provider, including Telstra, to provide it. That is the government’s Higher Bandwidth Incentive Scheme, or HiBIS. That means that an incentive can be provided to any provider who is prepared to roll out broadband anywhere in Australia. In fact, broadband can be provided over any platform. It can be provided over satellite; it can be provided over cable; it can be provided over ADSL; it can be provided over wireless. In fact, the last time I looked there were something like 29 registered HiBIS providers. While Telstra is certainly the most dominant in rolling out broadband—simply because it is the only one with a network in certain non-commercial areas—that certainly does not mean that there is no competition and that other providers are not able to do that.

Senator Conroy—So Citigroup have it wrong?

The PRESIDENT—Senator Conroy, continually interjecting is disorderly. I remind you that you have an opportunity to ask a question shortly.

Senator COONAN—I was saying that Senator Moore’s conclusion—which she apparently bases on some report, and I do not know whether Smith Barney have the latest figures—is not borne out by the latest information that I have, which suggests that not only is broadband growing apace but also providers other than Telstra can roll it out over any platform and also have access to the government’s incentive scheme. It is an open program. In fact, it is limited to Telstra being able to avail itself of 60 per cent of the funds relating to the roll-out. That relates very much to the fact that there simply are no competitors in some of the non-commercial areas where people, quite rightly, expect services. Telstra is the only one who is able to provide them.

As to regulation more generally, I am very glad to have the opportunity to repeat some aspects of my previous answer. While the competition regime has by and large served us well—and there is evidence to suggest that—that is not to say that the time is not right for us to ask some questions about the emergence of new technology and whether the current regulatory regime responds adequately to the services that new technology provides and to the new competitors who are able to provide those services. This very much relates to the roll-out of future networks. Even Telstra has in fact recently invested in another network, the Hutchison network. They are the first dominant telco in the world to have done that. The conclusions that were rolled up in Senator Moore’s question are certainly not borne out by the facts.

Senator MOORE—Mr President, I ask a supplementary question. I do believe that there is a broadband disaster, Minister. I refer you to some further comments by Senator elect Barnaby Joyce on Radio National this
morning. Is the minister aware that Mr Joyce said that the current regime leaves Telstra’s competitors in an ‘invidious position’ of reliance on Telstra? How does the minister respond to Mr Joyce’s statement that remedying this position through structural separation was ‘a key position’ for the National Party and that ‘we have to go in to fight on this issue’? How does the minister intend to fight Mr Joyce, and maybe some other members of the National Party, on this issue?

Senator COONAN—I thank Senator Moore for the supplementary question. I am very upset that she still thinks that broadband is a disaster despite there being absolutely no evidence to suggest that. I have just provided some pretty comprehensive evidence that she is wrong about that. I am also absolutely intrigued to think that Senator Moore, not knowing what she is talking about, is now taking her cue from Senator elect Barnaby Joyce. I think she has to work out where to access some basic information that will enable her to frame a question that is based on fact instead of a bit of political scuttlebutt.

Family Services: Child Care

Senator FIFIELD (2.49 p.m.)—My question is to the Minister for Family and Community Services. Will the minister inform the Senate of what the government is doing to support parent access to quality child care and further advise if there are any alternative policies?

Senator PATTERSON—I thank Senator Fifield for his question. Supporting parents who access child care are an important part of the Australian government’s commitment to assist families to balance work and family. The government continues to spend, and has spent, more on child care than any Labor government ever did. The Howard government will spend over $8 billion over this and the next three financial years to support child care, an average of over $2½ thousand per child per annum in assistance to families using child care. The government’s commitment will be significantly boosted with additional assistance of $1.1 billion for the child-care tax rebate.

Further assistance to people caring for children that has most probably not received the publicity that it deserves is the assistance to grandparent carers. Grandparents who have sole responsibility for their grandchildren are now being assisted if they are in training or if they are in work by receiving 50 hours of free child care. This is in recognition of the role that grandparents are playing in situations where their grandchildren are in their custody or care.

Child-care benefits assist over 700,000 families a year who are using approved child care. Those benefits provide around 70 per cent of the total cost of full-time long day care for low-income families paying average fees. Looking at the record to see how that increase in funding has been reflected in outcomes in child-care places and services, the number of places and services has increased substantially since we came to office. Child-care places have increased by 83 per cent. Outside school hours care has gone up by a record 277 per cent. That is an amazing increase, from 71,000 places to 270,000 places, since we have been in government. Family day care places have increased by 27 per cent and child-care services have increased by 28 per cent, from just under 8,000 to over 10,000.

I want to remind people that the Australian government does not cap the number of long day care places. That is something that is not clearly understood. If a parent puts a child into child care which is approved and registered, the CCB operates for long day care places. The government is committed to ensuring services provide quality outcomes for children. In order to be eligible for child-
care benefits and other funding, the support services must comply with all state regulations. In addition to the record number of places and record amount of funding this government has provided for child care, it recently announced over $20 million more in funding to help support child-care centres. Around $10 million of this has been allocated to child-care centres in rural, remote and Indigenous communities across Australia. I am announcing today that another $10 million will be used to help community based and not-for-profit type services to provide quality child care in a healthy and safe environment.

It always seems that where the states fall down, where they drop the ball, the Commonwealth has got to step in. This $10 million will help community based and not-for-profit type services to carry out urgent work to meet health and safety and licensing regulations—regulations for which the states and territories are responsible. It is important to remind those on the other side of the Senate that their state and territory colleagues have responsibility for the regulation of health and safety and the licensing of child-care centres. We all know that the state and territory governments are collecting unprecedented amounts of revenue from the GST, from stamp duty and from land taxes and gambling, and it should concern those on the other side of the chamber as much as it does the coalition that some states and territories do not have adequate regulations in place for some forms of child care. I have called on the state and territory ministers to address this issue among other issues. *(Time expired)*

**Telstra: Privatisation**

Senator CONROY (2.54 p.m.)—My question is to Senator Coonan, the Minister for Communications, Information Technology and the Arts. I refer the minister to the comments of the Minister for Finance and Administration, Senator Nick Minchin, in today’s *Australian Financial Review* where he said that the structural separation of Telstra is ‘utterly objectionable’. Does the minister support her colleague Senator Minchin when he says:

One of the great attractions of Telstra from an investor’s point of view is that it is a fully integrated telco, so it would have a potentially significant impact on the sale price if you went down that path.

Is the minister aware that we have now heard absolutely conflicting opinions on the regulatory changes required to sell Telstra from the Minister for Trade, the Minister for Finance and Administration, the Deputy Prime Minister, the Minister for Communications, Information Technology and the Arts and a procession of National Party backbenchers? Minister, is it not true that with respect to privatisation the coalition has more fault lines than Telstra?

**Senator COONAN**—I have to give it to Senator Conroy: he is trying to disguise his ignorance with some appalling attempt at humour. The critical point in relation to this is that the government has always maintained—and in fact Senator Minchin is absolutely correct, and I concur completely with Senator Minchin’s view—that structural separation of Telstra cannot under any circumstance be supported. But I can also support this on a different basis from the basis on which Senator Minchin supports it—that is, on the basis that an integrated telecommunications provider is the reason why there are good services in rural and regional Australia. If you are going to slice and dice Telstra, you are going to send services in rural Australia back to the Dark Ages and you are going to put an unreasonable burden on taxpayers to try to get provided the services that Telstra provides in non-commercial areas. If you are going to try to pull Telstra apart, it is...
certainly not going to be able to deliver those services.

Whilst it often looks like an appealing solution to people who have not looked at this issue, on no basis could it be supported that Telstra could suffer forced divestment of its assets. That is not to say that Telstra itself may not take a look at its internal structures and do more along the lines of accounting separation or perhaps, if it were able to, more along the lines of operational separation to ensure greater transparency in the operation of its wholesale and retail arms. That is completely different from the government engaging in some futile process of forced structural separation of Telstra where the costs are uncertain and the benefits are unknown—there has never been a cost-benefit analysis that would support that particular view—and in circumstances where, for heaven’s sake, you cannot guarantee that even consumers would be better off. Consumers are protected not only by the broad competition regime and an integrated Telstra but also by price controls. It is completely misguided for people to be thinking that the slicing and dicing of Telstra, the spinning off of bits and the selling off of other bits, will deliver good services throughout rural and regional Australia. I do support Senator Minchin. I support him on the basis that he put in today’s press, and I support him on the basis of the issues for which I have responsibility, which involve the delivery of decent services for Australians.

Senator CONROY—Mr President, I ask a supplementary question. Is the minister aware that the Deputy Prime Minister, Mr Anderson, told the ABARE Outlook Conference last week:

I am not comfortable about establishing a private sector monopoly that does not create the competitive pressures and tensions that we will need to get the best possible service and delivery outcomes, and price outcomes, in the future.

Doesn’t this view directly conflict with that of the Minister for Finance and Administration? What is the government’s primary objective from the sale of Telstra? Is it maximizing its share value, or is it ensuring that all Australians benefit from a competitive telecommunications environment?

Senator COONAN—Nobody wants to see anything other than an open, competitive regime that is going to increase innovation and investment in what is already one of the most successful and prosperous sectors that we have in the community—that is, the telecommunications sector. The Deputy Prime Minister said that he was not comfortable with the emergence of a private sector monopoly. I do not think anybody would be. In fact, what the government is ensuring in looking at the current regulatory regime is that all of the opportunities for competitive access to new technologies and to new networks will be available should the sale of Telstra proceed. But I should say that that will happen irrespective of whether or not the sale proceeds, because the government does acknowledge that we need to keep the development of new technologies under review. (Time expired)

Indigenous Affairs: Aboriginal and Torres Strait Islander Commission Artworks

Senator RIDGEWAY (3.00 p.m.)—My question is to the Minister for Immigration and Multicultural and Indigenous Affairs, Senator Vanstone. The minister would no doubt be aware that on 17 February ATSIC/ATSIS offices across the country were raided and the ATSIC art collection seized. Minister, has the collection seized from the 28 offices across the country been appropriately housed? Where is the collection currently being held? Is the collection being appropriately maintained by curatorial staff or is it being housed in some unknown warehouse gathering dust?
Senator VANSTONE—I do not know that I would agree with your description of ATSIC/ATSI5 offices being raided and artworks seized, but you can put whatever colour on it you choose in that context. The artworks were in fact ‘secured’, which is the word I would use.

Senator Carr—Seized!

Senator VANSTONE—I acknowledge the interjection by Senator Carr, who of course is so out of touch with Indigenous affairs that, to the best of my knowledge, not one state or territory government agrees with him, which has of course put his colleagues in a very awkward position. In any event, Senator Ridgeway, I take your question to be genuine. There was a clear indication that these artworks may not be kept as one collection, that they may be at risk and that they may be dispersed around Australia to a range of communities.

I support the decision to secure the artworks so that a decision can be made in the cold light of day as to what should be done with the whole collection. This collection is not a collection that was put together by ATSIC; it is a collection that was added to by successive ATSIC boards, but it was not started by them. It belongs to all Australians and, in particular, we all have an obligation to Indigenous Australia to make sure that this collection is protected, preserved and maintained. I intend to see that that happens. I cannot give you the specific location of each and every individual artwork at this point, but the intention in going to the offices and securing those artworks that were available was so that they could be preserved.

Senator RIDGEWAY—Mr President, I thank the minister for her answer and ask a supplementary question. Given that the government has relied so much on recognising that it is a valuable collection—numerous quotes have valued it at somewhere between $3 million and $4 million, and most of the pieces have a value of less than $500 each—is the government aware whether those pieces of artwork that have been collected have been put in one location as one normal collection? Are appropriate conditions being provided in terms of curatorial support? How much did the government pay for that to occur right across the country, given that the value of most pieces of the artwork is less than $500 each? What is now being done to protect them and to make sure that they are housed as one collection?

Senator VANSTONE—Senator Ridgeway, I will get you the answers with respect to where the artworks are at this point, the cost of securing them and the conditions under which they are now kept. It is my view that it would be better if the collection was kept in one place, with one body responsible for the curatorial aspects, which is not to say that that body might not come to an agreement with other bodies to allow parts of the collection, for example, to travel Australia to go on show or to be held in other places. I have seen a suggestion that it should be handed to the National Gallery for preservation, not to be available for sale, and another was that it should go to IATSIS. A range of people have views about what ought to happen, but I have yet to meet someone who thinks that this collection should be left to be broken up by the dying embers of ATSIC.

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Iraq

Senator HILL (South Australia—Minister for Defence) (3.04 p.m.)—Mr President, I have further information in answer to a question from Senator Bartlett on 7 March in relation to the testing of Australian
forces for exposure to depleted uranium. I seek leave to have that information incorporated into Hansard.

Leave granted.

The answer read as follows—

Senator Bartlett asked the Minister for Defence, upon notice, on 7 March 2005: Will all Australian Defence personnel returning from Iraq be tested?

Senator Hill—The answer to the honourable senator’s question is as follows:

No, Screening for exposure to Depleted Uranium (DU) will be offered to those considered at increased risk and those who request it.

The testing is completed by Australian Nuclear Science and Technology Organisation (ANSTO) utilising the latest industry methodology available.

Seventy-four personnel have had urinary uranium testing so far. All tests have been normal, that is, less than 70 parts per trillion.

Veterans’ Affairs: Anzac Cove

Senator HILL (South Australia—Minister for Defence) (3.05 p.m.)—Also on 7 March, Senator Bishop asked me a question regarding roadworks at Gallipoli, and I said that I would seek further information in relation to any skeletal remains that might have been disturbed. I draw Senator Bishop’s attention, if that is necessary, to an answer that Mr Downer gave in the House yesterday, in which he said that he understood no remains had been uncovered, and if they were the Turkish authorities had undertaken to provide information on that to the Australian government.

Family Services: Child Care

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) (3.05 p.m.)—In my answer to a question on child care, I may have shorthanded my description of the benefits to grandparents with primary responsibility for their grandchildren. I want to make sure that is clarified. The first measure allows grandparents with primary responsibility for caring for their grandchildren to access up to 50 hours of child care, even if they do not meet the work, study or training test.

Senator Chris Evans—Mr President, I rise on a point of order. What is the minister seeking to do and with what authority? I do not know what she is seeking to do, so I would like that clarified.

The PRESIDENT—I thought the minister was providing further information to a question she answered today.

Senator Chris Evans—Are you saying that she did not answer it correctly? It was a dorothy dixer, and now she wants to finish it off. I do not know under what standing order that is permitted.

The PRESIDENT—I am informed that it is a practice for ministers to provide further information after question time.

Senator PATTERSON—And I would have thought that the honourable senator would expect that people would want the full information. I shorthanded the version. I am now just clarifying it, to make sure that it is very clear. The first measure allows grandparents with primary responsibility for caring for their grandchildren to access up to 50 hours of child care, even if they do not meet the work, study or training test. We have waived the work, study or training test for these grandparents. The second measure is to allow grandparents with primary responsibility for caring for their grandchildren and who are receiving income support to get a special rate of child-care benefit covering the full cost of child care.
QUESTIONS WITHOUT NOTICE:  
TAKE NOTE OF ANSWERS

Telstra: Privatisation

Telstra: Services

Senator CONROY (Victoria) (3.07 p.m.)—I move:

That the Senate take note of the answers given by the Minister for Communications, Information Technology and the Arts (Senator Coonan) to questions without notice asked today relating to Telstra.

What we saw today was another embarrassing performance by a minister who is struggling to get across the serious issues inside her party and inside her government. Senator Coonan yesterday leaked copies of her speech and briefed journalists that today was the big day. She said, ‘Tomorrow I am going to the ATUG conference and I am going to outline the new Telstra rules.’ Here is one of the headlines in the Sydney Morning Herald—‘Coonan to outline Telstra rules’. What did we get today? Nothing; absolutely nothing. She had to spend five pages attacking Barnaby Joyce, the Deputy Prime Minister and the Minister for Trade—five pages ruling out structural separation.

It is obvious that the coalition has more positions on this than you can just about count. Four cabinet ministers are talking at cross-purposes on the issue through the media and they cannot even agree on the objective of the sale. Should it be to maximise the Telstra share price? That is the Minchin position, if I can call it that—to rip out as much money as they can to stick in their pockets so that they can dredge Tumbi Creek a second time. That is Senator Minchin’s position. And then we have the Deputy Prime Minister worried about unleashing a 600-pound gorilla—a fully privatised Telstra—on the market. And he should be, because, unlike the minister, he has probably seen the Citigroup report that Senator Coonan was asked about which makes it absolutely clear that the market is factoring in a massive domination in Telstra’s position in broadband and many other areas. That is the basis of the valuation of Telstra. That is why Senator Minchin is so determined to reject outright the pleas of the National Party—not ‘Rollover’ Ron Boswell, of course, because we know in the end he will roll over. But that is what this is about.

Every backbencher who has walked past a microphone in the past month has a different plan for the privatisation. But we ain’t seen nothing yet. Barnaby Joyce, senator elect, really has set the scene for the stoush. The interesting aside from this morning is that when Senator elect Joyce was on the radio he noted that he did not know what Ron Boswell’s position was on the sale. Come on, Ron, come clean. What is Senator Ron Boswell’s position on the sale of Telstra? He is saying one thing to Minister Coonan and another thing to Senator elect Barnaby Joyce. Come clean, Ron Boswell. Tell us if you are going to stand up and fight. Senator elect Barnaby Joyce has made clear his view of the Queensland National Party policy. He says: ‘Structural separation is the only option for the promotion of competition. It was a key position for the Queensland Nationals and an issue that defines our party.’ So this statement cannot be misconstrued by Senator ‘Rollover’ Ron Boswell, he did not define the party as a proxy for the Liberals but further stated, ‘We have to go in and fight on this issue.’ That is what Senator elect Barnaby Joyce said.

Senator Minchin has dismissed him because Senator Minchin and this government have a clear, unambiguous conflict of interest when it comes to this issue. Senator Minchin wants as many dollars in the bank as he can get, and he does not care how he rips them out. He just wants the dollars—‘Show Me The Money’ Minchin we are going to call him. But at the same time, the very same
government is in charge of regulating the sale of Telstra and introducing the new rules to be enforced on Telstra afterwards. That is why we have got so little from Senator Coonan. She cannot afford to outline a serious robust regulatory environment, because she knows it is going to affect the sale price. That is why she said that they were not going to be allowed to make changes—‘Post sale the government will be restricted for some time in the regulatory changes we can make.’ Unless we get it now we cannot get it afterwards, according to Senator Coonan. So come clean. Why are you just fattening up the cow to get as much money as you can? Why do you have this massive conflict of interest? You will not put forward a robust regulatory environment, because you know that will reduce the dollars. (Time expired)

Senator EGGLESTON (Western Australia) (3.12 p.m.)—It is always of interest and something of an amusement to us on this side of the house to hear the opposition to the privatisation of Telstra coming from the ALP. Let us face it, the ALP is basically committed to the 1930s socialist ideology of state ownership of enterprises. It is an ideology which proved a total failure in Eastern Europe and the Soviet Union, but here in Australia the ALP is determined that it will keep Telstra in public ownership because that is where it is coming from in an ideological sense.

There is no point in maintaining public ownership of Telstra to ensure good telecommunications services to the Australian people, because it does not matter whether Telstra is owned by the government or privately owned so long as the government can regulate the telecommunications industry to ensure that Australians wherever they live receive good services. That is where the government are coming from. We believe that Telstra should be sold because there is no point in the government owning a great telecommunications enterprise like that. We will provide regulations which will ensure through the universal service obligation and the customer service guarantee that excellent telecommunications services are provided to people not only in the cities but also in country Australia.

One of the ideological commitments we have as a party is to competition. We have deregulated the telecommunications industry, which means that now there are over 100 companies providing telecommunications services in Australia, and the result of that has been an incredible improvement in the standard of services provided to Australians and a reduction in the costs of calls and telecommunications services in general. That ideological divide is there, and we already have the runs on the board in terms of the success of our ideological commitment, the success of competition. We see no reason at all why Telstra should not be sold, because, as I said, we do not believe that governments should own major services like that when we can regulate the content.

So, given that we believe that Telstra should be sold, we are indeed seeking to ensure that the service provided after it is sold is excellent but also that the price that we get for the sale of Telstra is a reasonable and good price, because we plan to use that money to pay off government debt left behind by the Hawke-Keating government. There is still $30 billion or $35 billion of Commonwealth debt left behind by the Hawke-Keating government which the Howard government hopes to retire with the sale of Telstra. So, naturally, our aim is to ensure that we get a price which will enable that debt to be paid off.

We have done many things to improve telecommunication services within this country. We have ensured, through the Higher Bandwidth Incentive Scheme, that broad-
band will spread around regional Australia. We have made sure that people around this country have fast fax and fast internet services. I do not think there is any doubt whatsoever that the government will implement the broad recommendations of the Estens report, which were designed to ensure that telecommunications services in regional areas are maintained at a high standard.

Senator Lundy—They already have, and it did nothing!

Senator EGGLESTON—Senator Lundy says that they have all been implemented. In fact, the government plans to implement the recommendations regarding future proofing in the near future. There is no reason at all why Telstra should remain in government hands. The Howard government’s proposal to sell it is going to provide a better telecommunications service to the people of Australia, and Senator Conroy is just nitpicking on this issue.

Senator LUNDY (Australian Capital Territory) (3.17 p.m.)—I want to follow up Senator Eggleston’s comments about ‘nitpicking on this issue’. My experience—and the experience, I believe, of most people in this place—is that constituents around Australia in rural, regional, outer metropolitan and metropolitan Australia still have a substantial and genuine complaint about the lack of quality of services and the paucity of broadband services in this country. I find it extraordinary that the minister and other coalition senators are able to come into this chamber and hold their hand on their heart and say, ‘Isn’t competition doing the job?’ and, ‘Aren’t services on the stride forward in Australia?’ It is not the case—and as for the case with inquiries such as Estens and the so-called future-proofing strategy, I have heard it all before. We have seen inquiry after inquiry and nothing much changes.

My colleague Senator Conroy hit the nail on the head when he called into question the ultimate dilemma, the conflict that the government face: are they primarily motivated by their return on Telstra share prices through privatisation or are they ultimately motivated in public policy by the delivery of quality, affordable and diverse telecommunications services in Australia? That is the choice. Consistently we hear that it is about the money. There is a little bit of lip-service to service and quality and not a lot of action in response to numerous inquiries and, on the other hand, a consistent return to this need to consolidate Telstra, to fatten up their bottom line and to get as much return to the government as possible.

You know what? Labor believe that the public policy priority should in fact be quality, affordable telecommunications services to Australians. We believe that broadband infrastructure is critical economic infrastructure, critical social infrastructure and critical cultural infrastructure. If we do not have these networks that are of a high quality, that have pipes as fat as possible and that are affordable for average Australian families and small businesses, we are not going to have the economic infrastructure we need to continue to grow and to provide opportunities right around the country, not just in the areas that do have access to broadband. These are the issues. It is not just a question about telecommunications but a question about the bigger issue of the opportunities that businesses and families have to communicate in whatever way they need to. I do not think I need to spell out the imperative in relation to education and health. Access to broadband is a prerequisite to getting those sorts of services, particularly if you are isolated in any way.

I will go back to the main point—the conflict that the Howard government have. They are primarily motivated by the need to fatten
up Telstra’s bottom line and the conflict that places upon them. They have a weak approach to competition policy and a weak approach to telecommunications regulation. We have now, since 1997, a long history of failings to peruse. The most recent example, the competition notice to which I referred in my question, is the exemplar of the failure of competition policy under the Howard government in telecommunications. It is this failure that the Howard government must now deal with. I believe they have an absolute obligation, with their foreshadowed plans to pursue the privatisation of Telstra when they gain the majority in the Senate, to deal with these structural and competition policy issues in the lead up to that.

On the one hand, the National Party are saying one thing and making all the right noises for the constituency they represent—they say they are concerned about this—and 10 metres away in the same chamber Senator Minchin and Senator Coonan are arguing the exact opposite. I think National Party members are sick of being treated this way. Who is right and who is going to roll over in the National Party? If there is any question of conflict there, I suppose it will be the party room that ultimately ends up sorting that out. In the meantime, we will watch with interest as they express themselves through the media.

From Labor’s perspective, the public policy priority should be affordable quality broadband services, not the hodgepodge backward-looking approach that certainly Telstra has been taking, facilitated by the government, for many years now. Until the Howard government understands that this is the public policy priority, Australians all over the country will continue to suffer with sub-standard infrastructure and, therefore, an unreasonable constraint on their economic, social and cultural development. (Time expired)

Senator SANTORO (Queensland) (3.22 p.m.)—Senator Lundy, who has just spoken, summarised the position of the Labor Party very adequately when she said, ‘We will watch with interest.’ Senator Lundy, you and your colleagues opposite have been relegated to that position of ‘watching with interest’ by the voting public of Australia in four successive elections since 1996. That is what has happened. That is all that you were good at, Honourable Senator, with respect—watching with interest.

Let us look at the thesis of your arguments: one is that you are watching with interest and the second is to create political mischief in terms of the position of the Liberal Party and The Nationals. If there was one valid point that the honourable senator who has just spoken made it is that that position will be clarified, if it needs clarification, within the party room. You cannot just come into a chamber like this and try to create political mischief and attack Senator Minchin because he wants to protect the share price of Telstra, which is of great interest to hundreds of thousands of shareholders throughout Australia. What is politically, morally or economically criminal about a stakeholder minister or ministers seeking to protect the price of a share which is owned—enthusiastically embraced—by hundreds of thousands of Australians? That is where the opposition continue to make political mistakes. Their aspirations are not the aspirations of ordinary Australians. Their aspirations do not represent the will of ordinary Australians who have expressed their will in relation to tenure on government benches at four successive elections since 1996.

The position of the government, however, is very clear: let’s continue the sensible process of privatisation; let’s continue with a process that protects the interests of consumers and shareholders. The bottom line for the government is to continue to reduce the mas-
sive debt that you good people on the other side of the chamber left for us to clean up in 1996.

Senator Chapman—Good people?

Senator SANTORO—We are generous on this side, Senator Chapman, and we will refer to them as good people for the purpose of this debate. Senator Conroy knows deep down in his heart that the structural separation which he so hopes for is simply not in the best interests of consumers or shareholders. He knows that several positions on structural separation have been advanced. The government simply does not believe in taking up those suggestions seriously, because clearly there is no guarantee that they will promote sustainable competition in the sector.

There have been calls for vertical integration—splitting up the network and the wholesale business for the retail business. There have been calls for horizontal separation. Traditionally, this has had two varieties: requiring Telstra to divest its Foxtel shareholdings or requiring Telstra to sell the FHFC pay TV network. A third form of horizontal separation has been aired with suggestions that Sensis be separated from Telstra. The latest version that has been suggested is what could be described as geographic separation—that is, to separate Telstra into a network company that serves regional Australia and that would remain in government control as a retail company. The position of the government can be very simply restated: it has ruled out the full separation and dicing up of Telstra because the risks are clearly too high and the benefits are very uncertain—so uncertain that I heard neither of the two speakers from the other side successfully or convincingly outline what the benefits are. It would just simply be, as the minister has said, a leap in the dark.

Structural separation has been touted as an alternative to regulation, yet none of the speakers whom I have heard speak in this place today or outside in the media has come up with a suggestion that regulation is not necessary under structural separation. So, until the Labor Party in this chamber and the other chamber come up with policy suggestions that reflect the economic realities in the interests of consumers and shareholders that reflect their interests and seek to protect and enhance them, they cannot be taken seriously. Simple political mischief-making is just not going to work on this side of the chamber.

Senator MOORE (Queensland) (3.27 p.m.)—In her responses today the minister said that the recent ACCC decision was the first test of the regulatory process, that there were ‘some lessons to be learned’ and that, amongst the other things she was considering, these matters were under review. We know that there was a great deal of expectation and concern about this test of the regulatory process. On a number of committees—and I am sorry Senator Eggleston has gone, because we sat together on a number of committees—there was concern about how this test was going to operate. People know that regulation is a key point in discussion of Telstra and Telstra into the future—indeed, the whole future of communications in the country. So, when this first test at the ACCC was going to occur, people were wanting to see what was going to happen.

We saw, quite legally, a private decision, which is what happens in legal cases. But once again, when people were waiting to see whether the test was going to be either failed or passed, the fact that the decision was private, confidential, raised concerns. We also saw that the key party to this dispute, Telstra, gave no admission of guilt. There was no statement that perhaps they were wrong—another key test of the process. Other com-
panies, other people in the industry and people in the community were waiting to see how the test was going to operate, and there was no real fine. If I get into trouble with Centrelink and I have to go to court, not only are my name and my age published—I am not saying I have had this experience, but I know people who have—but also where I live, what I did, what my excuses were and what my term of punishment will be will be published. That did not happen in this case.

So is this really the best type of first test, Minister? I really cannot understand it. I am also concerned about the minister’s responses that anyone, particularly me, Senator Conroy and Senator Lundy, who asked questions about the Telstra process was ignorant—that we did not understand and we were confused. At least in Senator Conroy’s case the minister acknowledged that he covered his confusion with humour. I did not even get that much. I think the minister was confused, to be generous, about this process. When I said that I thought that the broadband situation in this country was disastrous, in her response the minister quoted me figures to say how many people had access to broadband. It is a good thing that many people have access to broadband. The confusion about the number of people who finally, after years of prodding, have been able to access broadband and the real point about the fear about Telstra’s growing dominance of the broadband market seemed to be missed in the minister’s answers to us this afternoon.

She also quoted the HiBIS as evidence of how well the Australian broadband market is working. My understanding is that recent Senate estimates hearings discovered that Telstra had received more than 64 per cent of the government funding through the HiBIS. That is despite the fact that there is a cap in the regime preventing any one provider from receiving more than 60 per cent of HiBIS funding. Perhaps using that quote might be a little bit difficult and could add to the confusion about how well regulation is working.

When we hear how many people have access to broadband, we are really pleased about their success. But people call us—they do not email; they call us—to complain about their lack of broadband services. These are people in the centre of Brisbane, in Wynnum, and people at Samford. Sometimes people who are as close as the University of Queensland precinct cannot get broadband access. That, to me, is not a reflection of a splendidly operating system, Minister. For those people, despite how many others have broadband, it is a disastrous response from a government that promised so much more. We wait with interest to see what The Nationals are going to do in this place to protect their people, their constituents, and to live up to the statements in the press.

Question agreed to.

Crime: People-Trafficking

Senator GREIG (3.32 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Justice and Customs (Senator Ellison) to a question without notice asked by Senator Greig today relating to the practice of trafficking for prostitution.

Sex trafficking is again, regrettably, in the news. In reality the Senate is not able to take note of the minister’s answer because he did not answer. He responded to my questions but he did not answer my questions. To be fair, he did indicate that he would come back to the Senate with some more detailed information. Minister Ellison, I hope, would understand that we Democrats, many community groups and women, broadly, are very concerned about this issue and do want to see the government take a greater interest in it and response to it.

In summary, specifically I asked whether it was the case that some women are detained and/or have been deported on the ba-
sis that, despite their allegations of sex trafficking, they were found to be unable or unwilling to provide the police with evidence against their traffickers or, at least in one case, were found to have been able to provide evidence but evidence which was not strong enough for the police, in their estimation, to lead to prosecution. Thus they face or have faced deportation. This is not, I think, an acceptable situation.

The government is to be applauded for its legislative initiatives to criminalise trafficking. However, when it comes to protecting the victims of trafficking, it still has a considerable way to go. It is quite pointless for us to have well-crafted legislation to prosecute those who commit trafficking crimes if we are not at the same time doing anything to look after the victims of those crimes. Historically, the government has tended to treat these women and children not as victims of a serious crime but as illegal immigrants, placing them in detention or deporting them. In fact, when I questioned the Minister for Justice and Customs two years ago about the death of Ms Puangthong Simaplee, who had been trafficked into Australia at the age of 15 and who died in Villawood detention centre, tragically, in September 2001, the minister commenced his reply to me in this chamber with the following statement:

It is a serious issue that Senator Greig raises. As I understand it, he is talking about someone who entered Australia illegally.

This was a woman who had been kept as a sex slave for 16 years. She had suffered from hepatitis C, malnutrition and pneumonia and was addicted to heroin and displayed clear evidence of self-harm. Nevertheless, she was put into detention at Villawood and died there, sadly, three days later, as a result, it would seem, of heroin withdrawal. She died because the government treated her as an illegal immigrant rather than as a victim of an appalling crime who desperately needed assistance.

Today, more than three years after Ms Simaplee’s tragic death, Villawood has once again become a detention centre for the victims of sex trafficking, with at least two trafficked women currently detained there. These women are in immigration detention because of a fundamental flaw, we argue, in the government’s approach to the problem of trafficking. The problem is that the government is predicating its support for victims—health, welfare and accommodation—on the extent to which they are able to assist police in mounting prosecutions. As Project Respect, the leading community group in the advocacy for trafficked women, recently argued:

This creates the impression that we are using the women like the traffickers—when they are of use to us (through helping with a prosecution) we will provide them protection and support; in contrast, if they provide no benefit to Australia, they will be deported.

As a result of the government’s decision to link victim protection with the extent to which victims are able to assist police, one of the women in Villawood is completely excluded from the protection program. This is because she was trafficked into Australia before the relevant legislation came into effect. In other words, because it is not possible for the perpetrators to be prosecuted under the sexual servitude laws, she cannot assist police to mount a prosecution. There is simply no justification for making victim support programs contingent on whether a victim is useful to the police. We need to do more in this area. I urge the government to review its arrangements for protecting and assisting victims of trafficking. Legislative initiatives and funding packages to address trafficking will be rendered ineffective unless we treat the victims of trafficking as victims of crime and ensure that they have

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access to appropriate protection, support and reparation.

Question agreed to.

NOTICES

Presentation

Senator Stott Despoja to move on the next day of sitting:

That the Senate—

(a) notes:

(i) the extensive history of violence directed towards human rights defenders and non-violent activists in Colombia,

(ii) that Article 3 of the Fourth Geneva Convention prohibits violence against civilians in the context of armed conflict that occurs within the borders of a sovereign state and is not of an international character, and

(iii) recognises the importance of human rights and peace work in the current situation in Colombia;

(b) recalls its resolution of 4 August 2004, in which it expressed its ‘hope that the Colombian Government will guarantee the safety of the people of San José de Apartadó, and of the international observers who accompany them’;

(c) expresses grave concern following the death of Luis Eduardo Guerra, leader of the Peace Community of San José de Apartadó, his partner and child, in a massacre of eight people in the Department of Antioquia, Colombia;

(d) notes that the United Nations High Commissioner for Refugees has strongly condemned these murders and called on Colombian authorities to prosecute those responsible; and

(e) calls on the Colombian Government to:

(i) formulate and make known to the international community a plan of action to prevent any further violations of the rights of the Peace Community of San José de Apartadó,

(ii) undertake an exhaustive and impartial investigation to ascertain all the relevant facts and bring to justice those responsible for the murders,

(iii) provide reparation for the victims’ relatives and for the Peace Community, and

(iv) guarantee the Peace Community’s right to a non-violent ‘Project of Life’ allowing them to remain outside the conflict, without suffering smears, threats or attacks because of this decision.

Senator Lees to move on the next day of sitting:

That the Agricultural and Veterinary Chemicals Legislation Amendment (Levy and Fees) Bill 2005 be referred to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 6 May 2005.

Senator Cherry to move on the next day of sitting:

That the following matter be referred to the Environment, Communications, Information Technology and the Arts References Committee for inquiry and report by 10 May 2005:

The circumstances surrounding the agreement reached between Telstra and the Australian Competition and Consumer Commission regarding the competition notice issued to Telstra on 19 March 2004.

Senator Brown to move on the next day of sitting:

That the following matters be referred to the Legal and Constitutional References Committee for inquiry and report by 22 June 2005:

(a) any Australian involvement in, or knowledge of, the practice known as rendition (the transfer of people for interrogation in countries which allow torture);

(b) any Australian involvement in, or knowledge of, the practice of torture overseas; and

(c) any related matters.

Senator Ludwig to move on the next day of sitting:
That the Senate—
(a) notes the deterioration in the economy including the record current account deficit of 7.1 per cent of gross domestic product (GDP), record net foreign debt of $422 billion, the negative household savings ratio and among the lowest GDP growth rates of the advanced economies; and
(b) calls on the Government:
(i) to acknowledge that there are severe economic imbalances in the economy that threaten to push interest rates still higher,
(ii) to implement policies that will lift the productive potential of the economy,
(iii) to invest in skills development to ease skill shortages which are now at 20 year highs, and
(iv) to support infrastructure investment to ease capacity constraints and inflation pressures and promote exports.

Withdrawal
Senator RIDGEWAY (New South Wales) (3.37 p.m.)—I withdraw business of the Senate notice of motion No. 1 for 10 March 2005, proposing the reference of a matter to a committee.

COMMITTEES
Selection of Bills Committee
Report
Senator FERRIS (South Australia) (3.37 p.m.)—I present the second report of 2005 of the Selection of Bills Committee.
Ordered that the report be adopted.
Senator FERRIS—I seek leave to have the report incorporated in Hansard.
Leave granted.
The report read as follows—
SELECTION OF BILLS COMMITTEE
REPORT NO. 2 OF 2005
1. The committee met in private session from 4.20 pm.
2. The committee resolved to recommend—
That—
(a) the provisions of the Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005 be referred immediately to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 10 May 2005 (see appendices 1 and 2 for statement of reasons for referral); and
(b) the provisions of the Higher Education Legislation Amendment (2005 Measures No. 1) Bill 2005 be referred immediately to the Employment, Workplace Relations and Education Legislation Committee for inquiry and report by 16 March 2005 (see appendix 3 for statement of reasons for referral); and
(c) the Tax Laws Amendment (2005 Measures No. 1) Bill 2005 be referred immediately to the Economics Legislation Committee for inquiry and report by 10 May 2005 (see appendix 4 for statement of reasons for referral); and
(d) the provisions of the Trade Practices Legislation Amendment Bill (No. 1) 2005 to be referred immediately to the Economics Legislation Committee for inquiry and report by 15 March 2005 (see appendix 5 for statement of reasons for referral).
3. The committee resolved to recommend—
That the following bills not be referred to committees:
• Agricultural and Veterinary Chemicals Legislation Amendment (Levy and Fees) Bill 2005
• Australian Institute of Marine Science Amendment Bill 2005
• Family and Community Services and Veterans’ Affairs Legislation Amendment (Further 2004 Election Commit- ments and Other Measures) Bill 2005
• Farm Household Support Amendment Bill 2005
• Medical Indemnity Legislation Amendment Bill 2005
Workplace Relations Amendment (Extended Prohibition of Compulsory Union Fees) Bill 2005.

The committee recommends accordingly.

4. The committee deferred consideration of the following bill to the next meeting:
   Bill deferred from meeting of 8 February 2005
   • Trade Practices Amendment (Personal Injuries and Death) Bill 2004.

(Jeannie Ferris)

Chair
9 March 2005

Appendix 1

Proposal to refer a bill to a committee

Name of bill(s):
Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005

Reasons for referral/principal issues for consideration
Included in the legislation is a provision to allow the minister to grant some of the powers of fisheries officers and migration officers to contractors and their employees. These powers include the ability to search, even strip search a suspect, and to confiscate property. In the past in this portfolio area, Labor has insisted that such powers only go to officers of the Commonwealth or a state

Possible submissions or evidence from:
Department of Agriculture, Fisheries and Forestry, Department of Immigration and Multicultural and Indigenous Affairs. CPSU

Committee to which bill is referred:
Rural and Regional Affairs and Transport Legislation Committee

Possible hearing date: as soon as possible
Possible reporting date(s): 10 May 2005

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Appendix 2

Proposal to refer a bill to a committee

Name of bill(s):
Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005

Reasons for referral/principal issues for consideration
Appropriateness of the detention regime, including possible length of imprisonment
Accountability mechanisms for behaviour of contractors and employees of AFMA and DIMIA involved in detention and personal searches

Possible submissions or evidence from:
Law Council, Department of Immigration and Multicultural and Indigenous Affairs. Australian Fisheries Management Authority

Committee to which bill is referred:
Legal and Constitutional Legislation Committee (may be more appropriate for the legal power on search and detention.

Possible hearing date: as soon as possible
Possible reporting date(s): 10 May 2005

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Appendix 3

Proposal to refer a bill to a committee

Name of bill(s):
Higher Education Legislation Amendment (2005 Measures No. 1) Bill 2005

Reasons for referral/principal issues for consideration
Basis for proposal to give Table B providers access to Capital Development Pool and possibility for this to be used as precedent for later decisions to spread finite funding more thinly

Possible submissions or evidence from:
Australian Vice Chancellors Committee, Group-of-Eight Universities, National Tertiary Education Union. National Union of Students. DEST

Committee to which bill is referred:
Employment, Workplace Relations and Education Legislation Committee

Possible hearing date: If 16 March 2005 report—none.
Possible reporting date(s): 16 March 2005
Appendix 4
Proposal to refer a bill to a committee
Name of bill(s):
Tax Laws Amendment (2005 Measures No. 1) Bill 2005
Reasons for referral/principal issues for consideration
Schedule 3: Supply of rights or options offshore. This is a complex schedule that requires detailed investigation eg. Foreign contracts provisions
Schedule 4: Mature age worker tax offset.
• Clarification on costings
Possible submissions or evidence from:
Schedule 3: Mark Tofft, Deloitte and Treasury.
Schedule 4: Treasury
Committee to which bill is referred:
Economics Legislation Committee
Possible hearing date:
Possible reporting date(s): 10 May 2005

Appendix 5
Proposal to refer a bill to a committee
Name of bill(s):
Trade Practices Legislation Amendment Bill (No. 1) 2005
Reasons for referral/principal issues for consideration
To investigate deficiencies on the merger authorisation proposal in schedule 1 and consider alternative merger authorisation models
Possible submissions or evidence from:
ACCC, Treasury
Committee to which bill is referred:
Economics Legislation Committee
Possible hearing date: 14 March 2005
Possible reporting date(s): 15 March 2005

NOTICES
Postponement
The following items of business were postponed:
General business notice of motion no. 80 standing in the name of the Leader of the Australian Democrats (Senator Allison) for today, relating to decriminalisation of abortion, postponed till 10 March 2005.
General business notice of motion no. 88 standing in the name of Senator Conroy for today, proposing an order for the production of documents by the Australian Competition and Consumer Commission, postponed till 10 March 2005.
General business notice of motion no. 89 standing in the name of Senator Conroy for today, proposing an order for the production of documents by the Australian Competition and Consumer Commission, postponed till 10 March 2005.
General business notice of motion no. 90 standing in the name of the Leader of the Australian Democrats (Senator Allison) for today, relating to the Nuclear Non-proliferation Treaty Review, postponed till 10 March 2005.

PARLIAMENTARY SERVICE AMENDMENT BILL 2005
First Reading
The PRESIDENT (3.39 p.m.)—I move:
That the following bill be introduced: A Bill for an Act to amend the Parliamentary Service Act 1999, and for related purposes.
Question agreed to.
The PRESIDENT (3.39 p.m.)—I move:
That the bill may proceed without formalities and be now read a first time.
Question agreed to.
Bill read a first time.

Second Reading
The PRESIDENT (3.39 p.m.)—I table the explanatory memorandum relating to the bill and move:
That this bill be now read a second time.
I seek leave to have the second reading speech incorporated in Hansard.
Leave granted
The speech read as follows—

PARLIAMENTARY SERVICE AMENDMENT BILL 2005

The bill I have just presented will amend the Parliamentary Service Act 1999 by providing for the creation of a statutory position of Parliamentary Librarian. It is a significant development in Parliamentary administration.

On 24 March 2004 the Speaker of the House of Representatives and I announced our intention to introduce such a bill.

A bill was subsequently introduced on 21 June 2004, but was not further debated and lapsed at the end of the Fortieth Parliament. The bill I am introducing today is in identical terms to the previous bill.

Honourable Senators will recall resolutions of both Chambers in August 2003 to abolish the three joint Parliamentary departments and replace them with a new Department of Parliamentary Services. This was one of the key recommendations made by the Parliamentary Service Commissioner, Mr Andrew Podger, AO, following his review of Parliamentary administration in 2002.

Another key recommendation was the creation of a statutory office of Parliamentary Librarian.

In the August resolutions, the House and the Senate expressed their support for the Presiding Officers in bringing forward amendments to the Act to provide for a statutory position of Parliamentary Librarian within the new joint Department and conferring on the Parliamentary Librarian direct reporting responsibilities to the Presiding Officers and to the Library Committees of both Houses of Parliament.

This bill contains those amendments.

A focus of the bill is to protect the independent provision of library services to the Parliament. Throughout the history of the Parliament that independence has been central to the Parliamentary Library’s contributions to the deliberations of the Parliament. It will be guaranteed by the package of amendments in this bill.

The continued independence of the Parliamentary Librarian is established by the legislative requirement that the Parliamentary Librarian’s functions must be performed in a timely, impartial and confidential manner and on the basis of equality of access for all Senators and Members.

The independence is reinforced by the need for the Parliamentary Librarian to have professional qualifications in librarianship or information management.

The independence is further underpinned by the direct reporting lines between the Parliamentary Librarian and the Presiding Officers and the Library Committees.

The appointment and termination provisions for the Parliamentary Librarian largely mirror those applying to the Secretary of the Department of Parliamentary Services. This ensures that, although the Parliamentary Librarian is within the joint Department, the Presiding Officers, rather than the Secretary of that Department, retain the final say in the appointment and termination of the Parliamentary Librarian.

These are new arrangements which, as a package, ensure the independence into the future of the Parliamentary Librarian and his or her important functions.

The bill provides that the Library Committees will have a significant role in advising the Presiding Officers on the annual resource agreement between the Parliamentary Librarian and the Secretary of the Department of Parliamentary Services. As well, the Parliamentary Librarian will report to the Library Committees at least once a year.

Honourable Senators, this bill is an important one for the Parliament and for Parliamentary democracy in Australia. It goes to the provision and analysis of information for Senators and Members, which is the lifeblood of Parliamentary debate.

It answers the call of both Chambers to create an independent statutory position of Parliamentary Librarian. By ensuring that independence, this bill should help all of us better to perform our parliamentary and representational duties.

I commend the bill to the Senate.

Debate (on motion by Senator Vanstone) adjourned.
NOTICES
Withdrawal

Senator NETTLE (New South Wales) (3.40 p.m.)—by leave—Pursuant to notice of intention given on Tuesday, 8 March 2005, I withdraw business of the Senate notices of motion Nos 1 to 27 standing in my name for nine days sitting after today. Before doing so, I understand that agreement has been reached for me to seek leave to make a short statement on the matter.

Leave granted.

Senator NETTLE—The Greens moved this disallowance within the appropriate time, as laid down in the standing orders, because we have consistently opposed the deregulation of the higher education system by this government and we hold legitimate concerns about the process which has led to 27 institutions listed in our disallowance motion gaining higher education provider status. The Greens’ intention in moving this disallowance was to allow for there to be public debate on the deregulation of the higher education system, which is something that the Minister for Education, Science and Training was calling for just last week, at the same time that he was proposing that these 27 institutions be listed as higher education providers.

The Greens do not support the deregulation of the higher education system, but at the very least there needs to be a more transparent process in deciding which institutions get listed as higher education providers. Our intention was to delay this wave of regulation until the debate had occurred. However, it appears that some of the institutions listed in our disallowance motion have already engaged students on the basis of future access to FEE-HELP—that is, they have led students to believe that they will be able to access higher education status before the disallowance process has been completed. Many of these students have already made decisions and moved interstate. On the basis of these arrangements, they were given their institutions.

We do not intend to impact on those families or those students, therefore we are withdrawing the motion. But it is important to note the criticisms of these institutions having informed their students that they will be able to access higher education provider status before the process for parliamentary debate on this disallowance has occurred. As a result, senators have been put in an invidious position regarding this disallowance, and the proper functioning of the parliament has been compromised by this process. It has undermined the ability of the Greens to represent the views of our constituents through the proper process of the parliament, and we will be raising these issues with the minister.

COMMITTEES
Finance and Public Administration
References Committee

Meeting

Senator GEORGE CAMPBELL (New South Wales) (3.43 p.m.)—At the request of Senator Forshaw, I move:

That the Finance and Public Administration References Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 10 March 2005, from 4 pm to 8 pm, to take evidence for the committee’s inquiry into the Regional Partnerships program.

Question agreed to.

‘BLACKOUT VIOLENCE’ CAMPAIGN

Senator RIDGEWAY (New South Wales) (3.44 p.m.)—by leave—I move:

That the Senate—
(a) congratulates the organisers of the Inner Sydney ‘Blackout Violence’ campaign against family violence and sexual assault against women in Aboriginal communities for receiving the 2004 Violence Against Women Prevention Award at New South
Wales (NSW) Parliament on 25 November 2004 for ‘outstanding contribution to the prevention and reduction of violence against women in NSW’, earned through their sustained campaign which was launched in September 2004 with Aboriginal footballers wearing purple arm-bands at the NSW Aboriginal Rugby League Knockout;

(b) notes that:

(i) the ‘Blackout Violence’ campaign is a local community initiative which has been successful through the hard work of Dixie Gordon, Redfern Legal Centre, Rob Welsh, Metropolitan Aboriginal Land Council and the Inner City Domestic Violence Action Group, and that they are still working to keep up the momentum of the struggle against all forms of violence against women and children in Aboriginal communities, and

(ii) numerous communities in Western Australia, Victoria and Queensland have been inspired by the ‘Blackout Violence’ campaign and have requested the assistance of the NSW organisers to apply the campaign as a national model to counter family violence;

(c) encourages the NSW Government to expeditiously approve the application for funding to formally draft the ‘Blackout Violence’ model for use by other Indigenous communities; and

(d) calls on the Commonwealth Government to work with the NSW Government and in partnership with Indigenous communities and community organisations, to ensure that such community initiatives are recognised and appropriately resourced in the Governments’ Indigenous Affairs policies and programs.

Question agreed to.

ENVIRONMENT: SYNTHETIC GREENHOUSE GASES

Senator BROWN (Tasmania) (3.45 p.m.)—I move:

That the Senate—

(a) notes that:

(i) laws aimed to reduce the amount of synthetic greenhouse gases and establish a licensing system for the import, export and manufacture of synthetic greenhouse gases passed the Senate in November 2003,

(ii) the Ozone Protection and Synthetic Greenhouse Gas Management Amendment Regulations 2004 were gazetted in December 2004 for commencement on 1 January 2005, and

(iii) the Minister for the Environment and Heritage has failed to appoint the board, specified in these regulations, which would issue industry permits and licences for the use of certain refrigeration and air conditioning greenhouse gases; and

(b) calls on the Minister to make a full explanation to the Senate in which he details:

(i) whether he has abandoned the scheme as outlined in the regulations,

(ii) the level of uncertainty in the industry,

(iii) whether he has succumbed to pressure from the motor vehicle industry in Western Australia which wants a dual system for the regulation of synthetic greenhouse gases rather than the single system outlined in the regulations, and

(iv) the cost already borne by taxpayers in the setting up of the original scheme.

Question agreed to.

COMMITTEES

Scrutiny of Bills Committee

Report


Ordered that the report be printed.
Regulations and Ordinances Committee
Delegated Legislation Monitor

Senator FERRIS (South Australia) (3.46 p.m.)—On behalf of Senator Tchen, the chair of the Standing Committee on Regulations and Ordinances, I present volumes of ministerial correspondence relating to the scrutiny of delegated legislation for 2004 and the Delegated Legislation Monitor for 2004.

DOCUMENTS
Memorandum of Understanding on the Execution of Search Warrants in the Premises of Members of Parliament

The DEPUTY PRESIDENT—On behalf of the President, for the information of the Senate I present copies of the Memorandum of Understanding on the Execution of Search Warrants in the Premises of Members of Parliament between the Attorney-General, the Minister for Justice and Customs, the Speaker of the House of Representatives and the President of the Senate, and the Australian Federal Police national guideline for execution of search warrants where parliamentary privilege may be involved.

The memorandum and guideline were negotiated over several years following consideration by the Senate, the privileges committee and the Federal Court of the immunity of documents associated with Senate and committee proceedings from seizure under search warrant.

Senator FAULKNER (New South Wales (3.47 p.m.)—by leave—I move:

That the Senate take note of the documents.

I will speak very briefly to the motion and indicate that I welcome the tabling of this memorandum of understanding and the associated guideline. The proposal for the memorandum of understanding was put forward by the House of Representatives in a report from its privileges committee in October 1995. I understand that the committee acted on the suggestion of former President of the Senate Michael Beahan. The Senate Standing Committee on Privileges first became involved in 1999 when it tabled the 75th report, which included a declaration of support for the proposal. Since that time the committee as well as the President and his predecessors have been actively engaged in the process of creating the memorandum of understanding throughout its long gestation period. I thought it appropriate that we acknowledge those facts today. I think this is a very important step forward, one that will be of great benefit to both chambers and all parliamentarians in this place.

Senator HARRIS (Queensland) (3.49 p.m.)—I also rise to speak to Senator Faulkner’s motion. The issue of security for documents that a constituent has sent to either a member or a senator for their assistance on those documents is a very crucial part of our democracy. It is very pleasing to see that this memorandum of understanding has actually been achieved between the parties relating specifically to the federal government. Before continuing with my remarks I will raise the issue that we still do not have a similar procedure where a state based police force applies for a warrant. I would recommend that both the Senate and the House of Representatives in the future look at this aspect also. In the memorandum of understanding I think the crucial issue that I have just raised is very well put in the second paragraph of the preamble. It says:

The process is designed to ensure that search warrants are executed without improper interference with the functions of parliament and so its members and their staff are given a proper opportunity to raise claims for parliamentary privilege or public interest immunity in relation to documents or other things that may be on the searched premises.

As a Senator for Queensland, I do not want to give, in any way, shape or form, the
impression that a member or a senator ought to be above the law. I do not imply that in any way at all. However, because of the significance and the stature of the positions and the roles that we fulfil, there are certain steps that should be taken into account if it is deemed necessary to execute a warrant on the premises of a member or senator—and that is irrespective of whether it is in their suite here in Parliament House, in their official electorate office or within an authorised privately funded office. Many senators and members have their official offices both here in Parliament House and in their respective state or electorate, and quite a few, like me—generally because of the vastness of the areas they represent—have elected to fund private offices as well. I believe it is important that these documents also cover those authorised privately funded offices.

Item 2 of the AFP guidelines says:
It is also possible that a document held by a member will attract public interest immunity even if it is not covered by parliamentary privilege. The High Court has held that a document which attracts public interest immunity cannot be seized under a search warrant.

The reference is Jacobsen v Rogers (1995) 127 ALR 159. They go on to say:
Public interest immunity can apply to any document if the contents of the document are such that the public interest in keeping the contents secret outweighs the public interest in investigating and prosecuting offences against the criminal law. Amongst other things, public interest may apply to documents if disclosure would damage national security, defence, international relations or relations with the states or if a document contains details, deliberations or decisions of the cabinet or executive council, or if disclosure would prejudice the proper function of the government of the Commonwealth or a state.

I place on record an additional issue: confidentiality between a constituent and their elected representative. If a person cannot have absolute assurance that any document they give to their member or a senator from their state cannot be taken by another person, irrespective of whether it is under the power of a warrant or without a warrant, then that will seriously undermine the confidence of that constituent. It would also seriously undermine the ability of each and every senator in this place and every member in the House of Representatives to represent their constituents.

I welcome the tabling of these documents and their formally being brought into effect. I reiterate the importance of the Senate and the House of Representatives taking a similar action in the future in relation to a warrant that may have been acquired by a state based police office. Parliamentary protection and the confidentiality between members and their constituents must be protected in those cases as well.

Question agreed to.

Auditor-General’s Reports
Report Nos 31, 32, 33, 34, 35 and 36 of 2004-05

The DEPUTY PRESIDENT—In accordance with the provisions of the Auditor-General Act 1997, I present the following reports of the Auditor-General:

- Report No. 32 of 2004-05—Centrelink’s Customer Charter and Community Consultation Program
- Report No. 33 of 2004-05—Centrelink’s Customer Satisfaction Surveys
- Report No. 34 of 2004-05—Centrelink’s Complaints Handling System
- Report No. 35 of 2004-05—Centrelink’s Review and Appeals System
- Report No. 36 of 2004-05—Centrelink’s Value Creation Program
Wednesday, 9 March 2005

BUDGET
Proposed Expenditure
Portfolio Budget Statements

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Indigenous Affairs) (3.58 p.m.)—I table the following documents:

- Particulars of proposed expenditure in relation to tsunami financial assistance in respect of the year ending on 30 June 2005.
- Particulars of certain proposed expenditure in relation to tsunami financial assistance and the Australia-Indonesia partnership for reconstruction and development in respect of the year ending on 30 June 2005.
- Portfolio supplementary additional estimates statements 2004-05 in accordance with the list circulated in the Chamber. Copies are available from the Senate Table Office.

The list read as follows—

PORTFOLIO SUPPLEMENTARY ADDITIONAL ESTIMATES STATEMENTS 2004-05

- Attorney-General’s portfolio.
- Defence portfolio.
- Family and Community Services portfolio.
- Foreign Affairs and Trade portfolio.
- Health and Ageing portfolio.
- Human Services portfolio.

Senator BARTLETT (Queensland) (3.58 p.m.)—by leave—I move:

That the Senate take note of the documents.

I realise it is not overly common to take note of documents like these but I thought, given the program we have this afternoon, it would not be too problematic to spend a few minutes briefly noting their contents. The Treasurer, as I understand it, today tabled in the other place legislation relating to this matter—the tsunami assistance legislation—and I thought it appropriate, given the historic nature of the commitment to this issue of not just the federal government but indeed the Australian people as a whole, to make a few comments on the matter.

The federal government’s overall contribution, according to reported statements, for tsunami assistance will be in the order of $1.3 billion, which is a very significant contribution in anybody’s language. I commented on the public record at the time of the tsunami that I was sure that government contributions would be forthcoming beyond the initial amount and that the real focus was on encouraging the public to give as much as possible while the issue was before them in such a graphic way.

The challenge after that phase is to follow through and make sure that all of that assistance is delivered as effectively as possible and to continue to focus on the long-term needs of the people, the communities and the nations affected. We all know that it will be many years before the areas affected fully recover from this. In many respects people directly affected, including Australians and many other people around our region, will in some ways never recover, particularly from their personal losses. The death toll is staggering, the number of people made homeless or displaced is even more staggering and the impact is in many ways literally inconceivable.

Nonetheless, the enormous response from the Australian community should be acknowledged. I understand that Australia has committed more per head of population than any other nation in the world and that the public contribution is over one-quarter of a billion dollars. The government’s contribution, as I mentioned, is also unprecedented in its significance. I also wanted to comment on this because I believe this presents the opportunity for a real shift in public attitudes and
government approaches towards development assistance and foreign aid assistance.

We all hear the comments that charity should begin at home and we should fix up our problems here first. Of course we need to make sure that problems in Australia are given appropriate attention. But I hope that this tragedy has made clear how valuable it is to the entire human community and the community of our wider region when we provide ongoing assistance to help other people through immediate difficulties and to assist them more broadly to develop their communities, economies and societies in a way that increases their stability and security. That is inevitably in our national interest as well. I hope that this provides an opportunity for an increased contribution from the Australian government and the Australian community to development assistance and to greater consideration of the wide-ranging needs of our region—not just the Indian Ocean region affected by the tsunami but other countries to our north and east. Pacific Island nations also have a significant need for ongoing assistance and understanding. We could do a lot more than just providing money.

The other big test for the government—and for the various agencies that have been the recipients of the hundreds of millions of private donations from Australians—in spending the large amounts of money that will be appropriated is to demonstrate that the assistance is provided effectively. Nothing could be more damaging after such a huge outpouring of generosity and genuine human concern than for stories to come through of the money being misused or wasted.

This tragedy and the generosity that has flowed from it provide a real opportunity for a shift in consciousness towards a more positive attitude of considering other countries in our region, almost all of whom are nowhere near as fortunate as we are here in Australia. But there is the hidden danger as well, the flip side of that coin—that, if this opportunity is squandered, attitudes may harden in the future. Certainly we have seen examples in the past of significant amounts of public donations going to areas and being spent in ways that have not seemed to make the difference that people thought they would. That can be counterproductive, not just in that the people whom we are trying to help are not helped but in that people are less willing to give a second time or a third time.

It is in many ways a crucial time with this package, the particulars of which have just been presented to the Senate and will be debated later on via the legislation when it gets here. Because of its significance, I think it is appropriate to draw attention to it. I note that half of the $1 billion package specifically aimed at Indonesia is a long-term interest-free loan. Nonetheless, it is obviously a significant amount of assistance. The initial meeting to consider how it will be spent is yet to happen. We certainly do not want to rush things unnecessarily, but we do need to make sure that it is provided as promptly but effectively as possible.

I think it behoves all of us to try and continue to monitor the expenditure of this money over the years to ensure that it provides maximum value, not just for the benefit, obviously, of the people it is meant to help or for the long-term security of our region but because of the opportunity it provides for this not to be the be-all and end-all of ongoing assistance. Perhaps it will signal a renewed commitment to increased financial, social and political support to other countries in our region, most of whom do not have the benefits and the prosperity that our nation is so fortunate to have.

Question agreed to.
AGRICULTURAL AND VETERINARY CHEMICALS LEGISLATION AMENDMENT (LEVY AND FEES) BILL 2005

First Reading

Bill received from the House of Representatives.

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Indigenous Affairs) (4.07 p.m.)—I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Indigenous Affairs) (4.08 p.m.)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

AGRICULTURAL AND VETERINARY CHEMICALS LEGISLATION AMENDMENT (LEVY AND FEES) BILL 2005

The Australian Pesticides and Veterinary Medicines Authority (APVMA) is a statutory authority, which has the critically important role of ensuring that agricultural and veterinary chemicals (agvet chemicals) out in the community are safe—both for humans, animals and for the environment. It achieves this through scientifically evaluating and regulating agvet chemicals before they can be legally sold or used. As part of these responsibilities, the APVMA regulates agvet chemicals to the point of wholesale sale. The costs of the APVMA are fully recovered through the collection of application fees and a levy on leviable disposals of registered chemical products.

A National Competition Policy Review of Agricultural and Veterinary Chemicals Legislation, completed in January 1999, made several recommendations about the APVMA’s cost recovery arrangements. These were intended to remove potential hurdles to smaller businesses seeking registration and discrimination between firms in respect of their contribution.

As a result of these recommendations the APVMA cost recovery arrangements were reviewed. The Government consulted extensively with industry and issued a draft Cost Recovery Impact Statement (CRIS) in November 2004. Analysis of the submissions received from stakeholders did not result in any significant changes to the cost recovery model outlined in the draft CRIS.

The amendments contained in this bill amend the following Acts to implement the new cost recovery arrangements as set out in the draft CRIS:

- Agricultural and Veterinary Chemical Products (Collection of Levy) Act 1994;
- Agricultural and Veterinary Chemicals Code Act 1994;

Key aspects of the bill include several changes to the levy such as:

- Changing from a calendar year to a financial year basis, consistent with the period of registration of chemical products;
- Providing for a tiered rate of levy to be set based on the volume of leviable disposals of a particular chemical product;
- Removing the existing cap of $25,000 placed on the amount of levy that may be paid in respect of a particular chemical product in a particular year; and,
- Removing the existing thresholds below which no amount of levy is payable in respect of a particular chemical product, currently $100,000.

The bill also creates a new penalty for understating the amount of leviable disposals and amends several provisions in the Agricultural and Veterinary Chemicals Code to better reflect the modular system of fees and assessments.
In addition, the bill will repeal a suite of interim levy legislation that is now spent, namely:

- Agricultural and Veterinary Chemical Products (Collection of Interim Levy) Act 1994;
- Agricultural and Veterinary Chemical Products Interim Levy Imposition (Customs) Act 1994;
- Agricultural and Veterinary Chemical Products Interim Levy Imposition (Excise) Act 1994; and
- Agricultural and Veterinary Chemical Products Interim Levy Imposition (General) Act 1994.

The amendments contained in this bill bring the cost recovery arrangements for the APVMA into closer consistency with the Government’s Cost Recovery Guidelines. They will also ensure that the APVMA continues to provide the valuable service of protecting Australia’s human, animal and environmental health, whilst continuing farmers’ access to a wide range of important chemical inputs.

Debate (on motion by Senator Vanstone) adjourned.

Ordered that the resumption of the debate be an order of the day for a later hour.

HIGHERS EDUCATION LEGISLATION AMENDMENT (2005 MEASURES No. 1) BILL 2005

First Reading

Bill received from the House of Representatives.

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) (4.08 p.m.)—I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) (4.08 p.m.)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

I am pleased to announce that the majority of the new arrangements of the Our Universities: Backing Australia’s Future package for higher education reform came into effect on 1 January 2005 and the benefits of those reforms will become increasingly apparent over the next 12 months and into the future.

The Australian Government’s reforms of the higher education sector have taken place in the context of a strong and undiminished commitment of public support. This bill now before the Senate represents a clear expression of that support, as it will honour a number of election commitments for much needed places and funding across the country.

These commitments include 100 new radiation therapy places as part of the Strengthening Cancer Care package, $2 million in infrastructure funding for Charles Darwin University for improved information technology, and $12 million in infrastructure funding for the establishment of a new school for Veterinary Science and Agriculture at James Cook University.

Other funding measures in this bill include 40 additional aged care nursing places, extra funding for the additional 12 medical places at James Cook University for the years 2005-2009; $16.5 million in increased National Institute funding for the Australian National University; and a transfer of monies in relation to the establishment of the National Centre for Marine and Coastal Conservation at the Australian Maritime College’s Point Nepean Campus.

This bill also provides for a number of legislative housekeeping measures.
It will extend the eligibility for capital development funding grants to higher education providers listed in Table B of the Higher Education Support Act 2003.

The bill will also ensure that, where a Higher Education Provider who is subject to the tuition assurance requirements under the Act ceases to be able to provide a unit of study, students will have their Student Learning Entitlement and FEE-HELP balances re-credited. These technical adjustments are necessary to protect the interests of students, should a private provider be unable to deliver higher education units.

The bill will also make some minor amendments to the Higher Education Funding Act 1988 as part of the transition to the new legislative framework.

Finally, this bill will amend the Maritime College Act 1978 to ensure that the Australian Maritime College complies with the National Governance Protocols this year. Compliance with the protocols will enable the College to receive a 5% increase in Commonwealth Grant Scheme funding for 2006.

Full details of the measures in the bill are contained in the explanatory memorandum circulated to honourable Senators.

I commend the bill to the Senate.

Debate (on motion by Senator Patterson) adjourned.

**TAX LAWS AMENDMENT (2004 MEASURES No. 7) BILL 2005**

Report of Economics Legislation Committee

Senator BRANDIS (Queensland) (4.09 p.m.)—On behalf of the Economics Legislation Committee, I present the report of the committee on the provisions of the Tax Laws Amendment (2004 Measures No. 7) Bill 2005, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator BRANDIS—I seek leave to move a motion in relation to the report.

Leave granted.

Senator BRANDIS—I move:

That the Senate take note of the report.

In tabling this report, I want to make a few remarks about an issue arising in relation to schedule 3 of the bill. Schedule 3 of the bill, if passed, would amend the Petroleum Resource Rent Tax Assessment Act 1987. It would increase the amount that companies undertaking new exploration for oil and gas in designated frontier areas can claim for the purposes of determining their resource rent tax liability. Petroleum resource rent tax was introduced in 1987 with the intention of ensuring that the Australian community received an appropriate share of the large returns that can follow the development of rich oil and gas deposits, while ensuring that companies that explore for and develop these resources receive an adequate return on their investment. It applies to offshore areas under Commonwealth jurisdiction, with the exception of the North West Shelf, where a revenue-sharing agreement between the Commonwealth and the Western Australian government is in place.

Australia both imports and exports oil. Imports exceed exports by a substantial margin. In 2003-04, 23,649 million litres were imported and 17,660 million litres were exported. This margin is expected to widen such that the proportion of imported oil in primary consumption will rise from 37 per cent in 1998-99 to 52 per cent in 2019-20. This change results from a combination of increasing domestic demand and declining domestic reserves. Australia has substantial natural gas reserves but limited and declining oil reserves.

Australian gas reserves represent about 2.2 per cent of the world’s total but oil reserves account for only 0.4 per cent of global reserves. Nonetheless, Australia has thus far enjoyed a high level of self-sufficiency in oil and gas, at least for the last three decades.
However, the rate of new discoveries of oil and gas has lagged behind rising domestic demand. We are increasingly dependent on imported oil. Reserves peaked in 1994, declined by 19 per cent by the year 2000 and are continuing to decline. Australia’s current reserves of crude oil totalled 819 million barrels with a further 671 million barrels of condensate as at 1 January 2003, equivalent to only about five years of consumption at current rates. Production declines as reserves diminish. Geoscience Australia expects production to decline by 40 per cent to 50 per cent in the medium term and then to decline steadily even further.

Exploring for oil and gas is expensive. This is particularly so in the offshore frontier areas of Australia’s coast because drilling activity is carried out in very deep water. Estimates of the costs vary. Geoscience Australia costs a single offshore exploration in the region of $8 million to $10 million, while the Australian Petroleum Production and Exploration Association, APPEA, advised the committee that the costs of a deepwater exploratory well may well exceed $50 million.

Australia is also considered a risky place to explore. Success rates are low compared with other countries. Australia ranks 46th in the world in exploration-drilling success, with a commercial success rate of a little over six per cent. This compares with other locations such as Malaysia, with a commercial success rate of over 50 per cent, and Angola, with over 40 per cent. Nonetheless, substantial sums of money continue to be spent on exploration for oil and gas in this country. In 2002-04, explorers spent a total of $995 million. The amount spent fluctuates from year to year. The total spent in 2002-03 represented a 14.7 per cent increase over that spent in 1998-99. However, the overall trend for the last two decades has been for the levels of exploration to decline, particularly when the number of wells drilled and the quantity of seismic surveys carried out are considered. That trend can be expected to continue.

While exploration has declined, there appears, nonetheless, to be further exploration potential for new petroleum resources. Australia has 40 offshore basins, of which half remain unexplored. The measure considered by the committee recognises the need to extend exploration into areas previously unexplored. The government has indicated that, when specifying designated frontier areas, the relevant minister is likely to favour those areas which are at least 100 kilometres from a commercialised oil discovery and not adjacent to an area designated in the previous year’s acreage release.

In these circumstances, there is international competition for the exploration dollar. This is where the rates of taxation applying to commodities are quite important, particularly when the rate of taxation in this country continues to decline. During the course of its inquiry, the committee’s attention was drawn to the differential rates of taxation that apply in relation to different parts of the resource sector. Offshore oil and gas may be subject to petroleum resource rent tax and, in this time of very high oil prices, taxation of windfall gains from established fields such as the Gippsland oilfield seems entirely reasonable. However, there is no equivalent tax on coal, despite the very heavy prices that industry is enjoying at the moment—and neither is there any tax on renewables such as water for hydro power.

APPEA were clearly not happy with the way the resource rent tax was applied in this country. They argued that there was a case for having a level playing field across all energy resources. To quote Mr Jones of APPEA:
If the decision is that there should be some sort of resource use tax—which is the case, both for mining and petroleum—and if this resource tax is based on the grounds that these are public resources, community resources, being used by industry for a commercial reason and a public benefit, then it should be a level playing field for everyone—and that does not exist, even within the fossil fuel sector—and it should cover everyone.

He went on to say that he thought that the petroleum resource rent tax, as currently applied, was not entirely consistent in how it treats risk in the petroleum sector. Levelling the playing field in relation to resource taxation would not be an easy task. There are a number of important externalities that would have to be taken into account—for example, Mr Jones referred to the public good of discovering new oil resources in this country. That is true in the sense that, unless more oil is found, the import bill will steadily rise in the years to come.

The committee is of the view that these issues need to be examined. It considers that there is a persuasive case for considering the differential taxation treatment within sectors of the resources industry as well as factors that affect its international competitiveness. The committee therefore, in recommending that the bill be passed in its entirety, is also making a further recommendation—that is, that the government institute a public inquiry into the impact of differential tax regimes in the resources sector, in particular with a view to identifying and removing any anomalies arising from differential tax treatments within the sector.

Question agreed to.
voice their concerns about the inequality that has been created as a result of these new payments. While the first $200 payment to self-funded retirees was paid immediately upon the passage of the legislation last year, aged pensioners are still waiting for the first instalment of the utilities allowance, which will not be paid until later this month.

But the inconsistencies do not end there. Under the legislation, the full rate of the self-funded retiree payment, now known as the seniors concession allowance, can be paid to both members of a couple provided they have individual Commonwealth seniors health cards. This is clearly inconsistent with the government’s treatment of the utilities allowance, which is available at a couples and a singles rate—the utilities allowance cannot simply be claimed twice by both members of a couple. So an aged pensioner couple on the maximum couple rate of pension of $786 a fortnight receives a utilities allowance of $100 a year, while a self-funded retiree couple can earn up to $80,000 a year, qualify for individual Commonwealth seniors health cards and also receive $200 a year each in the form of the seniors concession allowance. People can draw their own conclusions, but it would seem to me that the aged pensioner couple struggling on barely $20,000 a year is in far greater need of additional assistance—

Senator Patterson—Talk to your Victorian colleagues about that!

Senator CHRIS EVANS—than the self-funded retiree couple on $80,000 a year. This is another classic example of poorly targeted—

Senator Patterson—See how hard it is to talk with someone talking over you, like you were doing in question time?

Senator CHRIS EVANS—Minister, if you cannot read your scriptwriter’s questions, don’t blame me.

Senator Patterson—I am just giving you a dose of your own medicine.

Senator CHRIS EVANS—Good for you! Grow up, will you. This is another example of the poorly targeted, bandaid assistance measures that have become the hallmark of the Howard government.

Senator Patterson—You will never see things from this side of the chamber. You will never be over here.

Senator CHRIS EVANS—That is probably why the Prime Minister has taken all of your responsibilities off you, Minister. It is very hard to find out what you are responsible for now, because most of your job has gone to Mr Hockey and—

Senator Patterson—Sticks and stones.

Senator CHRIS EVANS—I do not know what you do now, except go from one disaster to another—but that is your business.

Senator McGauran—Cabinet: you will never see it!

Senator CHRIS EVANS—Senator McGauran, coming from you! You cannot even do the deputy whip’s job properly! Finally, I would like to make some observations about the government’s plans for what it describes as welfare reform.

Senator McGauran interjecting—

Senator CHRIS EVANS—Senator McGauran, I would like to thank you for electing the last Green to the state parliament of Western Australia on the weekend, on National Party preferences! I am sure the Greens and the Labor Party appreciate that. I thought you ought to refer that matter to Senator Abetz; it was a very clever decision! But I digress.

Finally, I would like to make some observations about the government’s plans for what it describes as welfare reform. I say ‘what it describes as welfare reform’ because we all know that the Howard government’s
plans are not really about reforming the welfare system to assist payment recipients move into employment. If the government’s record is anything to go by then the proposals it puts up will be about cost cutting, pure and simple. This is all about making it harder for those in need to access payments so that the government can save a few dollars and improve its budget bottom line. The government does not seem to understand that real welfare reform is about making the social security system simpler, fairer and more accessible for the six million Australians who access income support payments each year. Real welfare reform is not about cutting costs by simply making it harder for those in need to access payments. Successful welfare reform should actually develop opportunities for the full workforce participation of welfare recipients.

As always with the Howard government, its plans are simplistic and narrow. The narrow, cost-cutting focus of the government’s agenda is best summed up by its failed attempt to limit access to the disability support pension. By now recycling these plans, the government has again showed that it cannot tell the difference between cost cutting and reform. Labor recognise that encouraging people to move from welfare to work is a policy objective in its own right. We want fewer people on welfare and more people in work. By helping people make the transition from welfare to work, we can deliver social and economic benefits to individuals, their families and communities, and the nation as a whole.

I will conclude with some observations on the difference between Labor and the coalition in terms of attitudes to and management of social security. Unlike the government, Labor are committed to a fairer social security system which offers the necessary level of income support for Australians when they need it. We also believe that the social security system should supplement Australians on low incomes, particularly families who face additional costs in providing for children, people with disabilities and people who make sacrifices to care for others.

Labor believe we should support Australians in need but also provide incentives to assist those people with the welfare to work transition. The social security system is most effective when it rewards hard work and increases people’s access to opportunities and skills so they can improve their standard of living. As I have already said, this bill does nothing to address the long-term structural deficiencies in the government’s social welfare framework. By failing to fix these problems, the government has again failed to do the right thing by the six million Australians that access income support payments every year. Labor will pass this bill but will continue to argue for a fairer, simpler and better system of social welfare to benefit all Australians.

Senator GREIG (Western Australia) (4.27 p.m.)—I too rise to speak on the Family and Community Services and Veterans’ Affairs Legislation Amendment (Further 2004 Election Commitments and Other Measures) Bill 2005. The Democrats welcome the bill, which amongst other things makes aged care accommodation bonds exempt assets under the social security and Veterans Affairs assets test. Many older Australians are faced with paying an accommodation bond for entry into an aged care hospit. Having paid the bond, they do not receive interest on it and have no control over the funds until they either leave the facility or pass away and the balance is returned to their estate. The family home is exempt from the assets test for social security benefits. This bill applies the same rules to the assessment of accommodation bonds, the size of which continue to grow. Removal of the treatment of the bond as an asset for the pur-
pose of calculation of income support is a sensible change and represents a fair and reasonable outcome to what was becoming a considerable problem for many low-income pensioners and veteran residents.

We also accept the changes that this bill brings to the child income cut-out amount for family tax benefit. The child income cut-out amount formula provides that, firstly, the following amounts for a year per child must be added: taxable income, the value of any adjusted fringe benefits, target foreign income, net rental property loss and tax-free pension or benefit. Secondly, from this value the amount of deductible child maintenance expenditure is subtracted and then, finally, by dividing the part B standard rate that applies when the youngest child is five years old or over by 0.3 and then adding the part B income-free area, you get the cut-out amount. The complexity of this formula would challenge the best of us, and I seriously doubt that any parent could independently and readily satisfy themselves that it was being applied correctly. So it is with some relief that we note the formula is now to be replaced by a specified cut-out amount, if for no other reason than that it is less complex. We accept the department’s assertion that it preserves the true value of the cut-out amount.

I turn now to the third change brought about by this bill, which the minister explains as an increase to family tax benefit B, in this case delivered as an end-of-year bonus payment once family tax benefit B families lodge their annual tax returns—except that this is a misnomer. From reading it, families would reasonably expect a $150 bonus per child, which would come in very handy midway through the year, particularly for single parents who struggle to meet the costs of raising children alone. Many will not receive it, however. There will be no $150 bonus for them. There will be no bonus because it will be eaten up by a flawed payment system that causes families to repeatedly incur family tax payment debts at the end of the year through no fault of their own. This is a matter that we Democrats have consistently raised in the five years since the government introduced the family tax benefit system. Time and time again in this place we have outlined the difficulty that families incur in the requirement that they accurately estimate their income.

If the formula I outlined a moment ago seemed complex then consider what the general income estimate process is for every Australian family who wants to claim their entitlement to cover the cost of children. The process is this: they multiply the amount they receive before tax, the gross amount, by 26 or 52, depending on whether they are paid weekly or fortnightly; they have to take into account any pay rises or other changes in their regular earnings since 1 July; they have to add any bonuses, lump sum payments, gifts or extra money that they owe or their partner has received since 1 July or that they expect to receive during the year; they have to add the value of fringe benefits or any salary package for the financial year, and they may need to seek assistance in calculating this from the Family Assistance Office; they add any foreign income; they add any income from rental property, that is net income; they add any pension or benefit paid since 1 July; they then subtract any tax deductions that may be allowed, such as work-related expenses; and, finally, once they have added these together, they must subtract their own and/or their partner’s child support and maintenance payments made that year—and there is no margin for error allowed in that calculation.

This does not just happen once a year; families are encouraged to do these calculations monthly. Single parents raising children alone, struggling with work and family re-
sponsibilities, are faced with this in order to claim family tax benefit B. How they find the time in their busy schedules to do this concerns me. It goes without saying that families, even if they rigorously apply the previous nine steps that I have outlined, will inevitably be unable to estimate their income accurately. Many future changes simply cannot be accurately predicted. These families incur an overpayment, and it will need to be offset by this advance payment of $150 and likely the next one as well. It remains that the family tax benefit system creates poverty traps. It will be even worse at the end of this financial year because of the anomaly of 27 fortnightly paydays for that year for many workers.

Every family’s circumstances are different, but many who would normally expect to receive a small tax refund at the end of the year, as well as the $150 family tax bonus, are likely to find instead that they owe money to Centrelink. The $300 increase in family tax benefit B—whether it is paid this year, next year or even last year—will not fix the major problems in this flawed payment system. This is a case of the more things change, the more they stay the same. These families who incur family payment debts are neither Centrelink cheats nor welfare frauds, but the government insists on putting them in that category, and then attempts to mask the flaws in the system by paying bonuses, which many will not receive.

In September 2002, the Minister for Family and Community Services announced that changes to the family assistance scheme were aimed at improving the administration of the scheme and providing more choice and flexibility for families. The minister also indicated, ‘The changes will see the number of overpayments greatly reduced.’ Masking the true extent of overpayments by denying families bonuses is not providing low-income families with more choice and flexibility. Just two years ago, the Commonwealth Ombudsman’s inquiry into the family tax benefit reported in response to the changes. It said:

However, the analysis suggests that, even if my recommendations are adopted in full, the scheme is likely to continue to result in significant numbers of unavoidable debts for families.

Clearly, the Ombudsman’s predictions have been borne out. The Australian Democrats support this bill, because those low-income families who manage to avoid the estimate pitfalls and actually receive the bonus will be provided with some short-term relief. It may mean that for one week they will not have to line up at welfare agencies for assistance with the costs of daily living.

The government’s double standards in relation to families are further promulgated by this bill. It is not only low-income families who will receive this; wealthy families—millionaires even—where through wealth, opportunity or good fortune one parent can choose to stay at home, will also receive the bonus. The government pays family tax benefit B to wealthy families with a stay-at-home parent at the same time as it intends to compel single parents to leave children as young as six years of age to go out to work. So in addition to all its other flaws, family tax benefit B is mistargeted. The Australian Democrats support this bill and will continue to press the government to address the fundamental systemic problems of the income estimate system and change the fundamental basis on which FTB part B is paid.

Senator HUMPHRIES (Australian Capital Territory) (4.35 p.m.)—I am pleased to rise to support the Family and Community Services and Veterans’ Affairs Legislation Amendment (Further 2004 Election Commitments and Other Measures) Bill 2005. The effect of this legislation is both to honour our commitments made by the Howard gov-
ernment at the election last October—commitments which were obviously recognised by the electorate as further securing and improving the position of Australian families and their capacity to face the future with confidence—and to simplify a number of arrangements within the family and veterans legislation and social security legislation that deal with calculations so as to ensure that access to benefits is more easily obtained.

It is worth commenting first of all on the increases or supplement being offered under family tax benefit part B. As senators are aware, under the commitment made by the government last October, families will benefit from the introduction of the new part B supplement to the family tax benefit. They will initially benefit to the tune of $302.95 per year. The first payment of the new part B supplement will be made at the daily rate for the remaining portion of the income year after the commencement of the measure on 1 January 2005. So, proportionately, of that $302.95, recipients would expect to receive $150.23 for that first six-month period. Of course, after that point the measure will be indexed—the part B supplement will be annually indexed on 1 July in accordance with movements in the consumer price index.

There was a complaint by the opposition during the election campaign, and before that point, about the government’s supposed failure to index these benefits provided to the Australian community. But it is clear from this measure, and others, that indexation is provided for, across the board, in cases where indexation will benefit the community. Senator Greig has criticised these measures but not so much the measures themselves as that he claims many of the benefits provided here, including the provision of a part B supplement, will be eaten up or cancelled out by overpayments that are made to people in the course of a given year. This inequitable situation, as he sees it, somehow cancels out the generosity of the measures that the government has put in place with this legislation. I have heard those criticisms by the Australian Democrats and, of course, by the Australian Labor Party, but what I have not heard yet is a clear, concise alternative to the government’s arrangements.

Of course the government expects people to estimate their income in some way as a device to allow people to receive the benefits to which they are entitled. It is a fundamental feature of social security legislation that you provide benefits to people who are in particular categories or classes of need and that you provide resources where they are most beneficial and not where they are not deserved or needed. If you have a simple system you have anomalies. If you have a very simple system, an oversimplified system, you have anomalies. People receive benefits that should not receive them on any equitable assessment and others that may deserve benefits do not receive them. Necessarily, a system which is fair is complex to some degree. If the Australian Democrats have an alternative, I would like to hear it. I have not heard it from Senator Greig this afternoon and I certainly have not heard it from the Labor Party in the past. When they provide that alternative, then we can have a real debate about what better way there is of structuring family benefits of the kinds which are referred to in and improved with this legislation.

As I said, there is also simplification in this bill of other arrangements under which benefits are paid. The bill will make further arrangements to repeal the existing formula set down for the FTB child income cut-out amount. A child whose income equals or exceeds the cut-out amount cannot attract payment of the family tax benefit. The formula is being replaced with a specified amount of $11,233, which represents annual indexation
of the existing amount for 2004-05 of $10,948. The new cut-out amount, which will apply from 1 July this year, will be indexed to inflation on each following 1 July. The new amount is higher than the amount of $11,218 that would have been applicable from 1 July under the existing formula. As Senator Greig pointed out, this simplifies the arrangements in respect of child income by not creating any propensity for the system to throw up anomalies or undeserving cases of benefits being paid.

The third and perhaps most important measure, certainly for older Australians, is the change being made to the classification or assessment of accommodation bonds. The government made a commitment during the recent election campaign that it would give older Australians peace of mind and greater capacity to manage their transition to aged care, so it determined that there would be a measure to exempt aged care accommodation bonds from the social security and veterans’ entitlements means test. If a customer pays an accommodation bond to an aged care facility, the refundable balance of the bond is currently assessed as an asset of the customer under the means test. This may reduce the customer’s payment or rule out payment altogether. These amendments will significantly improve that situation so that many older Australians will receive more or will receive a payment that was previously not available to them.

Furthermore, consumers who pay their accommodation bonds through periodic payments will now be able to rent out their former home without the rental payments affecting their rate of payment. They will also keep the asset test exemption for their former home while it is rented out. This advance is in line with the current concessions available to residents in high-level aged care who pay accommodation charges. Customers who will now be eligible for either a social security or veterans’ entitlement payment because of these changes may be able to have their payments backdated to 1 July this year. All that will be necessary is for these customers to claim payment from Centrelink or the Department of Veterans’ Affairs before 30 September or, in special circumstances, before 30 June 2006. That is clearly an improvement on the present situation, and I think it will provide important relief for a large number of Australians who deal with the issue of accommodation bonds in aged care facilities.

Those are the measures that the government has put on the table—measures to simplify accountability arrangements around family benefits or concessions relating to accommodation bonds. They are measures designed to honour commitments made during the election campaign last October. In looking at the improvements in payments and the simplification arrangements, it is worth comparing what the government has put on the table with this legislation with the sorts of things that would have been facing the Australian community had the election gone differently and there had been a Latham government ruling Australia at the present time.

There is a list of measures that would have very deeply affected the Australian community in that eventuality. For example, under the family tax policy of the Latham opposition, single-income and sole-parent families would have lost their family tax benefit part B—worth $60 a week for under fives and $40 a week for over fives—but they would have gotten a new tax threshold worth only $20 a week; meaning that something like 400,000 families would have been worse off under that arrangement. All families under the Latham arrangements would have lost the coalition’s $600 per child a year payment. In particular, families with a larger number of children would certainly have
been significantly worse off under those arrangements.

Families where mum has a baby and stays at home after the birth of the baby would have lost out because they would not have got the family tax benefit part B and they would also have missed out on the $600 per child per year payment. Families not on family tax benefit part A would have lost the coalition’s $3,000 maternity payment because Labor would have means-tested that payment—deserting the idea that the payment should be available to every Australian mother who has a child and takes the responsibility of raising that child. Families who were unemployed or were on low incomes would have been worse off because of the loss of the $600 per child per year payment and family tax benefit part B.

Some families who were unemployed but then went back to work would have become worse off under Labor’s tax and family policy. For example, a family with two or three children that increases its annual income from zero to $30,000 would have been worse off under Labor’s arrangements. Families who rely upon the spouse tax offset would have been worse off because it would have been means-tested under Labor’s arrangements. Parents with children under three who used child care and who otherwise would have had access to the coalition’s 30 per cent child-care rebate would have missed out on Labor’s one free day, which would have applied only to three- and four-year-olds.

They are some examples of how badly targeted Labor’s alternative measures are and how difficult it is in these circumstances to accept criticism now because the measures that the electorate clearly preferred when we went to the last election campaign are being brought forward and implemented as promised. It is something of a tribute to the success of the government’s present policy settings with respect to family support and family benefits that the only way that Labor could devise alternatives and put them on the table was to create losers—and losers on a large scale. Hundreds of thousands of Australians would have been worse off under Labor’s arrangements—even though, of course, others would arguably have benefited. They had to create losers to find some point of differentiation—

Senator Patterson—Low-income families.

Senator HUMPHRIES—Low-income families were the biggest losers in those arrangements. Indeed, it was many low-income families that delivered the victory to the coalition government in October last year, because they saw the inequity of what was being provided as the alternative from Labor.

The measures in this bill are very appropriate. They will deliver greater security to Australian families. They will also provide greater security and peace of mind for older Australians. I am pleased that, despite the somewhat reluctant tone taken by some others in this chamber, this legislation will pass today and the benefits will begin to flow to Australian families.

Senator MARK BISHOP (Western Australia) (4.49 p.m.)—I want to make a few comments concerning the Family and Community Services and Veterans’ Affairs Legislation Amendment (Further 2004 Election Commitments and Other Measures) Bill 2005. The purposes of the bill, as has been discussed by previous honourable speakers, are threefold: firstly, to introduce a new family tax benefit part B supplement effective from 1 January 2005; secondly, to replace the existing formula for the child income cut-out amount for FTB with a specified cut-out amount of $11,233 and a new formula for its indexation; and, thirdly, to exempt aged care accommodation bonds from the assets test.
These amendments, as previous speakers have identified, directly flow from the government’s election platform. Consistent with Labor’s approach on election commitments, and despite our criticisms of some parts of the family tax benefit policy, we support the bill.

The second part of this bill, exempting the capital value of an accommodation bond from the assets test, is good policy. It has long been a serious anomaly that one’s house is not counted as an asset for benefits but its realised cash value is counted and considered. This is worse when that realised asset is not available because it is tied up in an aged accommodation bond. No doubt many senators have received, as I have, extensive representations on this matter in recent years. The result will be that a considerable number of people, including veterans, will now receive an age or service pension increase. Some may have such a pension restored or in fact receive the pension in part for the first time. In passing I would observe that at least now there is some consistency and fairness in the overall policy in this area. Our support for this item is therefore unequivocal.

Our position on the family tax benefit supplement, however, is one of criticism. The payment of family tax benefits as part of the tax regime has been a major problem for the current government for the best part of the last five or so years. The fundamental design feature which asks a family to predict its income for a year in advance is, to say the least, problematic. Of course, it is okay for anyone with a steady income, and pay-as-you-earn taxpayers with an unvarying income do not have the problems. End of year outcomes are unlikely to vary much from their predictions. It is a different matter, though, when there are working partners and one or both are part time or casual. Their hours vary, and their income often varies on a weekly, fortnightly or monthly basis. The system simply does not cope where income is variable and less predictable. The payment of the supplement, therefore, is nothing more than a remedy to reduce the inevitable debts that have become a matter of public notoriety in recent years. The pity is that it has taken so long to have a system with some features that might remedy some of those problems. We would suggest it was only the pressure of the pending election last October which resulted in the promise of this lump sum supplement. However, it must be said that the government has now reneged to some degree on that promise.

As part of its election bribes, the government promised to increase the FTB part B by $300 commencing 1 July 2005. It is understood that the Treasury costing of this promise was that it would not be a lump sum but an increase to fortnightly payments. But now we have an ongoing fraud. It is to be a lump sum—that is, a credit against any debt can be offset—and it has been cut in half for the first year. Instead of $300 to be paid after 1 July this year, it will be $150, and not until tax returns are lodged with the ATO. So the full $300 promised will not be paid until the next financial year, 2005-06. We would suggest that this is simply a fudge to push out the budget outlays by another six months; but, more to the point, it reneges on promises, undertakings and commitments made prior to the last election. Hence Labor’s protest by way of our second reading amendment.

The other aspect of the bill concerns the introduction of a new cut-out limit for child income and the ongoing indexation of that figure. We note that the new cut-out is marginally higher than it is at present; so that element, at least, is supported. The FTB part B supplement, however, was portrayed as an additional benefit. In fact, it is intended to fix the overpayment problem that I referred to earlier. For those with overpayments, as the
explanatory memorandum explains, it will be shown as a credit.

Let me turn to some veterans issues which are relevant to this bill. First among these is the discrimination by the government, implicit in this bill, against veterans’ carers. As part of its election promise, the government undertook to pay a $1,000 bonus to those in receipt of a carer payment from Centrelink. These payments of $470.70 per fortnight are available on a means-tested basis to those caring for a disabled dependant. They must be unable to work and receive no other form of income support. The anomaly is that other carers, also looking after disabled dependants, are not eligible for the bonus of $1,000. This is because they are on the age or service pension. Needless to say, these people feel they have been cheated.

Veterans’ partners often write to me—as they undoubtedly write to other members of parliament—about a lack of support where they care full time for their disabled veteran partner. Often, as I think is known, this entails the sacrifice of a working career or other opportunities to supplement the family income. The point they make is that, through their efforts, they effectively save the taxpayer significant sums of money. Instead of a veteran being institutionalised or nursing services being delivered, the partner performs that task. Historically, veterans’ wives and families have provided the care, with little question and little reward or recognition. I think it is fair to say that this has always been the expectation. Yet, as they say, the disabilities result from military service, and the government ought to be liable. Further, the carers of these disabled veterans believe they suffer a double jeopardy. Not only has their partner been denied a full working life; they too are unable to work, as they are obliged to provide a degree of care to their partner. This in turn obviously impacts severely on family standards of living.

This is a circumstance not limited to veterans; it is true of all those who are called on to sacrifice their own lives for the care of a loved one. In the case of veterans, it is perhaps worse simply because a veteran has been disabled in service to our nation. Hence the observation and complaint that the government has ignored them in the provision of the carers bonus. Clearly, the policy is arbitrary, made on the run in the lead-up to last year’s election—intended to attract votes, but in the clear hope that those who missed out would not realise in time.

The tandem operation of the Social Security Act and the Veterans’ Entitlements Act is messy in a number of places, and there is no particular blame to be attached to that fact; it is simply the result of history and hundreds of amendments made to both acts over a period of almost 100 years. Over time, different approaches to means-tested income support benefits have been gradually brought together. Hence this combined bill amending both principal acts.

One of the great areas of conflict has been the conflict in policy with respect to the definition of income. The disastrous creation of the defence force income support supplement, DFISA, is one such example. I will not repeat my previous criticisms of this unholy mess, but I do want to refer to another downstream consequence. That concerns rent assistance. DFISA is a refund of the reduction made to Centrelink pensions by the means testing of the DVA disability pension. In effect, this is an admission by the government that a disability pension is not income. But, as we know, the Department of Family and Community Services objected quite strongly. The outcome of this unresolved conflict was that the means test for rent assistance remains unchanged. That is, disability pension from DVA remains as income in the means test for rent assistance. What is more, the DFISA itself is also treated as income. It is
little wonder that so few understand this particular mess. It simply makes your head spin to try to get on top of it. The bottom line is that there is no policy—it is just ad hoc reactions made to cater to particular demands at particular times.

The effect for those receiving rent assistance from Centrelink is that the DFISA is swallowed up. They simply receive no benefit from the policy and the promised increase in income that they had anticipated they would receive. How perverse is that! No wonder so many veterans and war widows despair at this ongoing up-and-down in their income. It is no wonder that so many are simply unable to understand their entitlements. What was once a policy of legislative simplification has now turned into a deep and almost impenetrable fog. The tragedy is that many no doubt fail to apply for benefits they need, and others may not be getting what they anticipated to be their full entitlement.

I apologise to the Senate for raising this issue, as it is almost unintelligible—I have done my best to simplify it as I can. Indeed, I very much doubt that any minister involved with the decision would have understood the consequences of what they were doing at the time. I simply hope that the public servants who read this speech in due course and who do understand the mess created by cabinet and the government last year might be reminded of the consequences of the decision and the need to keep it on their list for remedial action as soon as the opportunity arises. The original amendment needed was no more than three words to section 8 of the Social Security Act. It did not need a program costing, as I recall from estimates last year, some tens of millions of dollars to administer. Those dollars clearly would have been better spent on rent assistance, so avoiding the creation of this whole new separate, different and additional set of problems.

In that context, it is important that these comments are recorded so that we can return to them in future debates.

Before closing, I wish to raise an issue concerning the seniors concession allowance. This allowance of $200 per year is payable to self-funded retirees with income of less than $50,000, or $80,000 for a couple. Entitlement also requires possession of a Commonwealth seniors health card. War widows who qualify, however, are not entitled to the allowance, simply because they have a gold card and not the Commonwealth seniors health card. The remedy is that they must separately apply for the Commonwealth seniors health card. Unfortunately, as I am advised, it seems that a lot of widows are not aware of this and so do not receive the allowance. The suggestion made to me by the War Widows Guild is that the Commonwealth seniors health card ought to be provided automatically, to save these now ageing members of our community the trouble. It seems to me that their suggestion is sensible, but it would be just as easy to provide the allowance to those with the gold card—that is, if their income limit is not exceeded. I mention this particularly for the attention of the minister at the table, Senator Patterson. It would be nice to think that a useful solution could be found to this minor administrative complication. A response in due course to the issue raised by the War Widows Guild is requested and would be appreciated.

**Senator PATTERSON** (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) (5.04 p.m.)—I thank honourable senators for their contributions. Older Australians and families with children will gain from the two major measures contained in this bill. The measures are the last in a series of legislation based commitments made by the government to Family
and Community Services and Veterans’ Affairs customers before the 2004 election.

The first of these commitments is to introduce a new family tax benefit part B supplement. The new supplement will be paid as a lump sum on income reconciliation after the end of the income financial year, additional to the standard rate of the FTB part B—a benefit that was going to be eliminated by Labor had they got into government. The lump sum payment is similar to the approach used for the FTB part A supplement that the government implemented last year. The new FTB part B supplement will commence on 1 January 2005 and, unlike Labor’s claim, will be six months earlier than originally announced. The claim has been made by members on the other side, both in the chamber here and publicly. In the election, we announced that this measure would start on 1 July 2005—in other words, for the 2005-06 financial year. Families receiving FTB would receive an extra $300.

The claim that this government is ripping families off is ludicrous and typical of Labor’s tactics of misinformation and mendacity. It never ceases to amaze me how they can twist the truth. We are bringing forward this payment to 1 January 2005. Families receiving FTB B will be entitled to up to $150 more than they would have been under the original commitment. Whatever Labor says—whatever twists and turns and dives with double pikes they do—the facts are that, in respect of this financial year, families will get $150 more than the commitment in the election. They will get $150 in respect of this financial year in family tax benefit and, as promised, $300 in respect of next financial year.

But Labor cannot get its mind around the issue of a financial year. It cannot get its mind around the fact that these payments are made in respect of a financial year. If Labor wants to continue to claim that this $150 is not real, let them go ahead—like they claimed the $600 per child payment was not real. We know what families thought of their claims about that. When they got that money in their pockets when they put their tax returns in, families knew how real that was. They will know how real this $150 is. That is in respect of this financial year—six months earlier than the original commitment of it being for next financial year at the rate of $300.

For 2004-05, which is now the first income year of the new supplement, the annual amount will be $302.95. The first supplement payments will be made in the second half of the 2004-05 income year, representing the period 1 January to 30 June 2005. That is a maximum of $150.23. That difference is the indexation factor. Subsequent supplement payments will payable in the full income year of eligibility. The FTB part B supplement will be indexed annually on 1 July based on annual movements in the consumer price index. However, the first indexation on 1 July 2005 will be a one-off six-month indexation arrangement because of the supplement’s 1 January 2005 commencement, which I will reiterate is six months earlier than the commitment made in the election.

In an additional amendment relating to FTB, the bill will repeal the existing formula set down for the FTB child income cut-out amount. A child whose income equals or exceeds the cut-out amount cannot attract the payment of FTB. The formula is being replaced with a specified amount of $11,233, which represents annual indexation of the existing amount for 2004-05 of $10,948. The new cut-out amount, which will apply from 1 July 2005, will be consumer price indexed on each following 1 July. The new cut-out amount is higher than the amount of $11,218.
that would have applied from 1 July 2005 under the existing formula.

The last of our election commitments is to exempt aged care accommodation bonds from the social security and veterans’ entitlements means test. This important measure is being introduced by the government to give older Australians making the transition to aged care greater reassurance and options for managing that transition. Under the current means test rules, the refundable balance of any accommodation bond paid by a customer to an aged care facility is held as an asset of the customer. This could have the effect of lowering the customer’s payment or making the payment not payable at all. Now, because of these amendments, many older people approaching aged care will be paid more or receive a payment that they would not have been paid before.

As a complement to this, customers who pay their accommodation bonds by periodic payments will now be able to rent out their former home without the rental payments affecting their rate of payment. These customers will also keep the asset test exemption for their former home while they are renting it out. This policy approach is consistent with the current concessions available to residents in high-level aged care who pay accommodation charges. Customers who will now be eligible for either a social security or veterans’ entitlements payment because of these changes will have their payments backdated to 1 July 2005 as long as they claim payment from Centrelink or the Department of Veterans’ Affairs before 30 September 2005 or, if they have special circumstances, 30 June 2006.

There have been a number of comments about the utilities payment to pensioners and the concessions payment to assist self-funded retirees with their concessions. We have indicated that self-funded retirees who have provided for themselves throughout their lives and are now in a position where they provide for themselves in their retirement ought to receive some of the benefits that they would otherwise have got had they been on the pension. One of those is concessions.

An offer went out to the states for some considerable period of time. It was not responded to. One or two states were nibbling at the bait on the end of the line but had not got hooked onto the line at all in real terms. We saw Victoria rip over $250 million out of the pockets of pensioners by taking away their concession for car registration and not coming to the table to look at some ability to assist self-funded retirees. In order to overcome that, we have given assistance to self-funded retirees in the form of a payment to assist them in paying some of their utility bills.

There are some variations across the states. I cannot remember exactly but concessions for pensioners vary from about $450 in some states to, I think, over $900 in one other jurisdiction. There is quite considerable variation between jurisdictions in their assistance to pensioners by way of concessions. We believe that we should give self-funded retirees some assistance. The states did not come on board, and that is why that commitment was made. When people make a comparison between the assistance to pensioners and the assistance to self-funded retirees, we indicate that pensioners were already receiving concessions—as I said, ranging quite broadly across the jurisdictions. No such concessions were given to self-funded retirees. That is why we believed it was important to do that. The benefits of self-funded retirees do not exceed in any state or jurisdiction the benefits that pensioners receive before you even take into account the concession assistance that the Commonwealth is giving to pensioners.
I note the comment that Senator Bishop made about the Department of Finance and Administration costings. The Department of Finance and Administration costings, the Charter of Budget Honesty and the revision of the published estimates in the portfolio additional estimates clearly show that the half-year bring-forward of this measure is real. We are talking about the $150 for FTB part B for this financial year. As I said, you might not believe it is real. As you argued, the $600 per child FTB part A supplement was not real. I indicated before that the Labor Party will know where that argument got them. Australian families receiving FTB part A know that the $600 for each child was real and they will know the $150 is real, too. The Labor Party can go on ad infinitum about the $150 not being real. It is, and they need to have a look at the Charter of Budget Honesty and the portfolio additional estimates. If you do that comparison, you will know it is real.

The other thing that Senator Bishop raised was the issue of widows of veterans. That has not been brought to my attention personally. There may be a letter from the veterans’ widows association but I have not had that brought to my attention. If what Senator Bishop has said is correct—and I do not always go by what somebody says here in the chamber, because it is not always right—and it is a case of an administrative situation and not something else, I will have a look at that because it would be inappropriate for people to be having to fill out extra forms.

With regard to the health care cards and the ramshackle system that existed for self-funded retirees under Labor, where it was very complicated and people did not apply, Labor might want to go back and look in the mirror at their own policies and their own record. I appreciate Senator Bishop bringing it to my attention. It would have been more collegiate had he done that earlier and by way of a letter to me. We might have been able to respond faster. Now it has been brought to my attention, I will have a look at it. I commend the bill to the chamber.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

NATIONAL HEALTH AMENDMENT (PROSTHESSES) BILL 2005

In Committee

Consideration resumed from 8 March.

The TEMPORARY CHAIRMAN (Senator Moore)—The committee is now considering amendment (1) on sheet 4524, moved by Senator Allison.

Senator McLUCAS (Queensland) (5.16 p.m.)—By way of assisting Senator Allison and Senator Lees, I will continue the remarks I was making during the committee stage yesterday. As I was saying at that time, this amendment will be accepted by the Labor Party. It improves on the amendment that Labor moved in the House of Representatives. The fact that there will be a review will provide some comfort to consumers and to hospitals.

The Democrats amendment goes to the question of the adequacy of informed financial consent arrangements. Labor are certainly very happy to support that notion. We canvassed that during the inquiry into the legislation. That has been one of the concerns expressed to the committee and to the Labor Party by many people. It is often only when people get into traumatic situations that they need to deal with the question of the cost of a prosthesis. Unfortunately, it is at that point that informed financial consent is in fact hard to deliver, because the person is concerned, troubled and looking for the best possible service that they can get. We all know it; we have all been there with our
family or perhaps ourselves—we want the best possible thing that can be provided. It is important that at that stage the practitioner who is providing that prosthesis ensures that the decision is made fairly and in full knowledge of what the costs will be.

We are now moving to a regime where there will be out-of-pocket costs for the use of prostheses. It is very important that patients make those decisions on an informed basis. So Labor support the proposal by the Australian Democrats to ensure that the review looks at the adequacy of informed consent arrangements. We also support—and I think it is inherent in the amendment that Labor moved—the examination of the extent of the out-of-pocket costs experienced by patients for clinically appropriate prostheses. With those few words, I put on the record that Labor will be supporting the amendment moved by the Democrats.

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) (5.20 p.m.)—The government accepts the amendments about the private health insurance treatment of podiatry surgeons—

The TEMPORARY CHAIRMAN—We are dealing with the other amendment—the Australian Democrats amendment.

Senator PATTERSON—I thought last night we had finished dealing with Senator Allison’s amendment. I left and somebody else took over. We are supporting Senator Allison’s amendment.

Question agreed to.

Senator LEES (South Australia) (5.21 p.m.)—by leave—I move the amendments on sheet 4518 revised 3:

R(1) Schedule 1, item 3, page 3 (after line 20), after section 5F, insert:

5G Hospital treatments by accredited podiatrists (podiatric surgeons)

(1) Hospital costs in relation to theatre fees, bed costs and prostheses incurred by private patients treated by accredited podiatrists may be eligible for benefits provided from the applicable benefit arrangements (hospital tables) of registered health benefit organisations for persons with appropriate cover.

(2) Benefits for professional fees of accredited podiatrists may be provided from the ancillary health benefit tables of registered health benefit organisations for persons with appropriate cover.

(3) The role of the Private Health Insurance Ombudsman includes monitoring the operation of provisions relating to accredited podiatrists within this Act and the Health Insurance Act 1973 and reporting and acting on complaints.

R(4) Schedule 1, page 7 (after line 25), after item 8, insert:

8A After paragraph 82ZS(1)(c) Insert:

(c) an accredited podiatrist;

R(5) Schedule 1, page 7 (after line 25), after item 8, insert:

8B At the end of Section 82ZSA Add:

; or (d) the level of hospital costs being met by registered health benefit organizations under their applicable bene-
fit arrangements in relation to patients of accredited podiatrists; or

(e) restrictions on access by an accredited podiatrist or the patient of an accredited podiatrist to hospital and day hospital facilities covered by an applicable hospital purchaser provider agreement or minimum benefit determination (default benefit) under paragraph (bj) of Schedule 1.

I spoke extensively on this matter yesterday, so I will not spend a lot of time on it now. These amendments simply make sure that we really do give patients some real choice. I would like to say a big thankyou to the departmental officers who worked through the night and to Gary Sauer-Thompson on my staff. They have had several attempts at this. I think we have reached a consensus. It is perhaps not as strong as I would have preferred, but it is a consensus agreement, and I hope that it will gain support. I am moving all the amendments together, as they all interrelate to the same issue, which is to make sure that podiatrists who are qualified as pediatric surgeons also have the opportunity to be part of this legislation relating to prostheses.

Senator McLUCAS (Queensland) (5.22 p.m.)—I will express a concern that I have had for a long time about making policy in this chamber without the fully informed consent that we were just talking about of all the participants. Labor is not opposed in principle to a broader discussion of the inclusion of pediatric surgeons or podiatrists into the regime that Senator Lees is proposing. But, on a number of occasions this week, I have expressed concern that decisions are being made about major health policy that may have flow-on effects into other areas of health policy. These decisions are potentially being made in a vacuum of data and a vacuum of information about what that will do to the budget. I am not sure that that is the best way for us as a nation to be making these sorts of decisions.

It has been put to me that these amendments will probably decrease costs, and they may. But I would like to see a little more firm data from health economists and from others that I can actually validate and ask questions about before we make these sorts of decisions. I have said, and I refer to the committee report, that basically we agree in principle that the introduction of pediatric surgeons into the regime is probably a good idea. We have talked a lot about this bill of hope. We hope that this last part of the bill of hope will actually decrease costs, but we do not know. I need to lay on the table the fact that we do not make decisions on the run and that we do not make decisions that are contingent potentially on other events in this chamber. I am very concerned that we are making a decision in that vein. Labor will support the amendments that have been placed before us but with the reservations that I have expressed.

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) (5.25 p.m.)—I will now talk to the amendments that I thought we were dealing with before. We accept these amendments about the private health insurance treatment of podiatric surgeons. Besides having very constructive discussions with Senator Lees, the government has also considered the majority report of the Senate Community Affairs Legislation Committee on this bill. I acknowledge Senator Lees’s strong commitment to working with the government to make a good bill better with practical suggestions. That is her typical style, for which she has sometimes paid a heavy price. Working to achieve what she thinks is an improvement rather than just opposing things is to be commended. I want to say on the record that she will be missed in this place.
Senator Knowles has also shown a particularly strong interest in this bill. I am not sure whether it is because she has recently had some surgery on her foot. Her commitment to health and to the Community Affairs Legislation Committee has been exemplary. She is also going to be missed. Two senators with very strong interests in health are leaving the chamber in June. I just wanted to say that they both have made a strong commitment in this area—particularly Senator Knowles with regard to this issue.

I note that senators from all sides of the chamber expressed concerns about this issue in the committee hearings. In light of the available evidence, including the report of the community affairs committee, it is clear to the government that there is a case for some changes to be made to the bill to recognise services provided by podiatric surgeons. The government has sympathy with the case for services provided by these surgeons for prostheses to be included in hospital benefits. After all, if you go to hospital for any reason, you have hospital cover. It is only reasonable that you can claim hospital benefits. Amendments to legislation last year clarified this for nursing and hospital accommodation costs. It is justified that prostheses benefits should be covered in the same way.

The amendments also refer to theatre fees, which are subject to contracts between health funds and hospitals. There are administrative arrangements to facilitate and improve the contracting arrangements for theatre services involving funds, hospitals and providers but, as a hospital cost attracting a benefit, it is appropriate to reflect theatre fees here. The government notes that nothing in these amendments compels health funds to offer cover for podiatric surgery services and related costs but we acknowledge that they do make the case for such cover more persuasive.

The Minister for Health and Ageing has written to Senator Lees giving certain assurances in relation to the treatment of podiatric surgeons and their services. I am happy to table that letter. The government acknowledges that Senator Lees has some specific concerns about two particular matters: providing equity of access by podiatric surgeons to hospital and day surgery facilities; and ensuring that, simply because the provider is a podiatric surgeon, health funds do not provide a cut-rate benefit compared to, say, a medical specialist.

Senator Lees’s amendments, following negotiations with the government, propose to have the Private Health Insurance Ombudsman’s powers clarified to ensure that he can deal with these issues and act on related complaints. That is acceptable to the government. The Private Health Insurance Ombudsman has been consulted and has indicated that his office has the capacity to take on this additional reference. In conjunction with these amendments, we believe that the minister’s letter addresses Senator Lees’s overall concerns, but the government is happy to undertake that it will ask the Ombudsman, when the minister writes to him after the bill is passed, to look specifically at them. The government therefore will not be opposing the amendments; it will be supporting them.

Senator LEES (South Australia) (5.29 p.m.)—Firstly, I thank the minister for her support. Can I just make one clarification—that is, that the revised amendments on sheet 4518 supersede all other amendments. It is just two sheets—or one sheet if we are printing double-sided—that we are now considering.

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) (5.30 p.m.)—We
are dealing with the document marked ‘ChamberDocs\amend\cw\4518 - rev 3 9/3/2005 4.15 PM’. For the benefit of other senators, a bundle of amendments were circulated and then there were changes to those amendments. We want to make sure we are referring to the same circulated document.

Senator McLUCAS (Queensland) (5.30 p.m.)—I am referring to the document ‘4518-rev 3 9/3/2005 5.07 PM’, which I think is different. I need to place on record my concern about the way that this decision is being made.

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) (5.31 p.m.)—I am advised that one is the advance copy and one is the printed version. Because of that, the times differ, but they are the same document.

The TEMPORARY CHAIRMAN (Senator Moore) (5.31 p.m.)—Are you clear on the amendments?

Senator McLUCAS (Queensland) (5.31 p.m.)—Yes, thank you, Chair.

Question agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted

Third Reading

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) (5.32 p.m.)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

BROADCASTING SERVICES AMENDMENT (ANTI-SIPHONING) BILL 2004

Second Reading

Debate resumed from 7 March, on motion by Senator Hill:

That this bill be now read a second time.

(Quorum formed)

Senator CONROY (Victoria) (5.35 p.m.)—The Broadcasting Services Amendment (Anti-Siphoning) Bill 2004 is a short bill which makes a relatively minor amendment to operation of the antisiphoning regime. The bill is important, though, because it gives the Senate an opportunity to examine whether the antisiphoning regime is operating effectively and achieving its intended objectives. As senators would be aware, this legislation was recently the subject of an inquiry by the Environment, Communications, Information Technology and the Arts Legislation Committee. The inquiry was conducted against the background of considerable public concern that the Ashes may not be shown on free-to-air TV. The inquiry raised important issues about whether the regime is operating as intended and whether it is being effectively monitored. I will return to these issues later in my remarks.

Firstly, I would like to talk more generally about the antisiphoning regime and the changes made by this bill. The key operative provision of the antisiphoning scheme is a licence condition which is imposed on all subscription or pay TV broadcasters under schedule 2 of the Broadcasting Services Act. Simply stated, the licence condition provides that pay TV broadcasters are prohibited from acquiring an event that is included on the antisiphoning list unless it has also been acquired by a free-to-air broadcaster.

At present, around one in four Australian households has access to pay television ser-
The antisiphoning regime was introduced into the Broadcasting Services Act in 1992 to prevent events that had traditionally been shown on free-to-air television from migrating exclusively to pay TV. The current list covers events in 11 sports as well as the Olympics and Commonwealth Games. Iconic events such as the Melbourne Cup, the AFL, the NRL grand finals, test matches and one-day cricket matches involving the Australian cricket team are all included on the list.

The scheme is designed to allow free-to-air broadcasters to purchase rights to listed events free from competition from pay television broadcasters. The objective of the scheme is to maximise the likelihood that listed events will be broadcast on free-to-air television. It is very important to remember, however, that the fact that an event is on the antisiphoning list does not mean that it will be shown on free-to-air television. Free-to-air broadcasters often decide that they do not want to show a listed event. Examples of listed events that free-to-air broadcasters have chosen not to show in recent years include: overseas tours by the Australian cricket team to New Zealand, India and South Africa; and the French Open tennis.

The Broadcasting Services Act contains an automatic delisting process. Events are taken off the antisiphoning list six weeks before they commence if a free-to-air broadcaster has not picked up the rights. The minister does have the power to override an automatic delisting if, in the minister’s view, a free-to-air broadcaster has not had a reasonable opportunity to acquire the rights to an event. The only change made by this bill is to extend the time for the automatic delisting of events from six weeks to 12 weeks. The object of this procedural change is to allow pay TV licensees more time to promote and prepare for the broadcast of events that are not taken up by the free-to-air broadcasters. Labor believe that this is a sensible amendment and we will support these provisions. I should, however, probably declare at this stage that I am a subscriber to a pay TV station.

Senator Hill—Which one?

Senator CONROY—Which one? Foxtel.

If the free-to-air broadcasters fail to pick up the rights to events that are important enough to be placed—

Senator Hill—That’s Packer, isn’t it?

Senator CONROY—Murdoch—on the antisiphoning list, pay TV broadcasters should be given every opportunity to promote their coverage to the community.

I would now like to talk about some of the other issues that were raised during the Senate inquiry. The key issue was whether there is a loophole in the regime as alleged by free-to-air broadcasters. This debate focused on the implications of the fact that the antisiphoning regime only prevents pay TV licensees, such as Foxtel, from acquiring the rights to events on the antisiphoning list before the free-to-air networks. It does not prevent third parties related to licensees, such as channel providers, from acquiring the rights. This matter of course was the subject of heated debate between the free-to-air and pay TV sectors.

As I stated earlier, the Senate committee hearings took place against the backdrop of public concern that the 2005 Ashes test cricket series would not be shown on free-to-air television. Free-to-air broadcasters contended that the commercial viability of broadcasting the series had been undermined by a loophole in the antisiphoning regime. In the case of the Ashes, Fox Sports, a channel provider to Foxtel, acquired the pay rights from the England and Wales Cricket Board through its agent, a company called Octagon. Free-to-air networks argued that they did not have a reasonable opportunity to acquire the
rights before they were sold to Fox Sports. While the free-to-air rights were available, until they were recently purchased by SBS, the free-to-air networks stated that it would not have been commercially viable for them to broadcast the test matches given that they could not obtain exclusive coverage.

The committee heard claim and counter-claim about when the rights to the series were first offered to the free-to-air broadcasters, whether they had the first opportunity to purchase the rights and the reasons why they declined to take the rights on offer. The committee stated in its report that it is not its role to determine the truth of these competing claims. Labor agrees with this conclusion. The job of assessing whether the law was complied with in this case properly resides with the Australian Broadcasting Authority. The ABA told the committee that it had already provided the minister with advice on these issues and that a further report was pending. Labor believes that the minister should release details of the ABA’s findings as a contribution to the debate on the operation of the list.

In assessing whether there is a loophole in the antisiphoning regime, Labor has not relied on the particular facts involved in the Ashes case. As senators are well aware, after considerable public agitation, SBS and Seven eventually acquired the rights to cover the test and one-day matches. Labor applauds the recognition by SBS, Seven and the ABC, the losing bidder for the test rights, that the broadcast of these matches on free-to-air television was in the national interest. One newspaper played a very critical role in this debate and the West Australian newspaper also deserves credit for galvanising a grassroots campaign about this issue. Nevertheless, the fact that the rights were eventually picked up does not, of itself, demonstrate that the scheme is working effectively. The effective operation of the scheme should not depend on a public outcry and/or a campaign by a major newspaper. Labor has focused on the issues of principle behind the scheme. Labor has looked at the fundamental objectives of the scheme and tried to determine whether current practices are undermining them.

It should be noted that debate about the loophole is not new. Evidence received by the Senate committee showed channel providers like Fox Sports have been acquiring the rights to listed events since 1994. Sometimes they have acquired pay TV rights only; on other occasions they have also bought free-to-air rights which were then on-sold. Free-to-air broadcasters have been expressing concern about these practices since 1995. In assessing the case for amendment, Labor focused on examining the original intent of the legislation and the objectives to which it was directed.

Labor agrees with the argument made by the pay TV sector that the regime was never intended to guarantee exclusive coverage for the free-to-air networks of the events included on the antisiphoning list. At the time the first antisiphoning list was released, the then Minister for Communications, Michael Lee, stated:

“This is not a list of events that are reserved solely for free to air television. Rather, it is a list of events for which pay TV licensees cannot acquire exclusive rights. It does not mean that these events cannot be broadcast on pay TV.

So there is no question that the list is not meant to guarantee exclusivity. In Labor’s view, however, the list was meant to ensure that the free-to-air broadcasters did get the first opportunity to acquire the rights to listed events. It is this opportunity which is undermined by the loophole.

The explanatory memorandum to the Broadcasting Services (Subscription Television Broadcasting) Amendment Bill 1992,
which set up the antisiphoning regime, provides evidence of the original intention of the parliament. The EM states the objective of the regime in the following terms:

This process should ensure, on equity grounds, that Australians will continue to have free access to important events. It will, however, allow subscription television broadcasters to negotiate subsequent rights to provide complementary or more detailed coverage of events.

Labor believes that the reference to subscription TV broadcasters negotiating subsequent rights indicates a clear intention that the free-to-airs should get the first opportunity to bid for listed events. This interpretation was endorsed by the ABA during the Senate committee hearings. At the time he introduced the first antisiphoning list, the then Minister for Communications, Michael Lee, stated:

... free-to-air broadcasters must have the first opportunity to acquire the rights to broadcast. I expect that pay TV will complement and expand the coverage of sport provided by free-to-air television.

Labor believes that when the pay TV regulatory regime commenced in Australia, it was not envisaged that channel providers would be purchasing the rights to sporting events. This may seem strange given that channel providers like ESPN were well established internationally by the early 1990s when the regime was drawn up. However, there are other examples which indicate that the drafters of the legislation thought that pay TV would operate in a similar way to free television. For example, initially the obligation to spend 10 per cent of program expenditure on local drama was imposed on pay TV licensees. In 1999, the government recognised that it is channel providers not licensees who make most of the expenditure on programs. The government subsequently amended the Broadcasting Act to impose the obligation on channel providers.

Labor believes that parliament intended to put free-to-air broadcasters in a privileged position to maximise the chance of listed events being shown free-to-air. This position is undermined if entities that are associated with pay TV licensees acquire the rights to listed events. There is clear potential that the commercial viability of the rights on offer to free-to-air broadcasters could be limited. Labor will therefore move amendments in the committee stage which ensure that the operation regime conforms to the parliament’s intention when the scheme was established.

In the time remaining to me, I would like to briefly canvass a number of other issues which were raised at the Senate inquiry. Representatives of ASTRA argued that the antisiphoning scheme contains a safeguard against third parties denying free-to-airs access to listed events. The minister can refuse to delist a program if any free-to-air network has not had a reasonable opportunity to acquire the rights. ASTRA claimed that this would mean that pay TV licensees would not be able to broadcast the event. The department provided the committee with legal advice which endorsed ASTRA’s position on this issue. However, the effectiveness of the safeguard was challenged by free TV. Free TV submitted legal advice that a pay TV licensee could broadcast listed events without having to acquire them in breach of the act. As the Senate committee report notes, this issue has not been settled. Labor believes that the effectiveness of the minister’s powers should be put beyond doubt. We will move amendments to achieve this objective in the committee stage.

Another issue raised during the Senate committee hearing was the need for effective monitoring of the antisiphoning list. I am a great believer in the ‘use it or lose it’ principle in these matters. If free-to-air networks consistently refuse to show listed events,
they should lose their privileged position in relation to the acquisition of the rights. In my view, the application of this principle will maximise the incentive for free-to-air networks to broadcast events on the antisiphoning list. At present, there is no independent, publicly available monitoring of the broadcasting of events on the list. ASTRA does some valuable work in this area, but I think that even they would concede that monitoring the regime should not be their job. The ABA does require free-to-air broadcasters to file returns with it every six months, but neither this information nor the ABA’s analysis is publicly available. Labor urges the government to give consideration to giving the new Australian Communications and Media Authority responsibility for regularly reporting on the scheme.

In concluding my remarks at this stage of the debate, I again indicate that Labor will also support the procedural change in the antisiphoning scheme made by this bill. The extension of the automatic delisting period from six weeks to 12 weeks in no way undermines the key objectives of the scheme. The change should enhance the ability of pay TV broadcasters to promote their products to the community. Labor remains committed to a strong and effective antisiphoning regime. Events of national importance should be available to all Australians, not just those who can afford pay TV. In the committee stage of the bill, we will move amendments to ensure that this continues to be the case. I will leave more detailed comments on those amendments to the committee stage.

I note Minister Coonan has arrived in the chamber. I welcome the announcement today that the minister has reversed her decision to drop the soccer World Cup from the antisiphoning list. I am very pleased to acknowledge that the minister has restored that onto the list where it belongs. It is a national icon and the Socceroos deserve the chance to be viewed by all those Australians who want to watch them when they qualify for the 2006 World Cup and the 2010 World Cup.

Senator BARTLETT (Queensland) (5.50 p.m.)—I speak for the Australian Democrats on behalf of Senator Cherry, who is otherwise engaged. The issues around the rights and access to broadcasting sporting events for free TV and subscription television have been fraught with emotion and the subject of continuous debate amongst many people. The Broadcasting Services Amendment (Anti-Siphoning) Bill 2004 proposes to extend the automatic delisting period for the antisiphoning list from six weeks to 12 weeks. The pay TV providers support the extension, arguing that it provides a better opportunity for subscription television operators to acquire rights to events and market and promote these events. The Premier Media Group submitted that the reason they and other entities have used the formal delisting process on so many occasions is to do with the necessity to have the events removed so that their group can confirm both publicly and with distributors that it will include these events on the Fox Sports channels and provide them to Austar, Foxtel and Optus. The Premier Media Group also noted that the reform would have a positive efficiency effect because, once the automatic 12-week window is in place, it is likely that there will be few requests made of government to delist events.

The free-to-air broadcasters oppose the bill and are concerned that the proposed extension of the period for automatic delisting from six to 12 weeks will provide greater opportunities for subscription broadcasters and rights owners to circumvent the antisiphoning rules by stringing out negotiations for rights until the automatic deadline approaches. The ABC submitted that extending the automatic delisting of a designated event to 12 weeks would ‘put pressure on rights
negotiations’. The free-to-airs argue that if the list is to be extended then the parliament should address a perceived loophole in the rules that is allegedly being exploited by the subscription television broadcasters.

The legislation places a condition on subscription television broadcasting licensees that they will not acquire the right to televise, on a subscription television broadcasting service, an event that is specified in a notice unless it has been acquired by a free-to-air or it has been delisted. The provision in the legislation only applies to licensees—that is, Foxtel—and does not apply to shareholding entities such as News Ltd or to channel providers such as Fox Sports.

The free-to-airs argue that Fox Sports have been able to utilise the loophole to negotiate broadcasting rights for sporting events before free-to-airs have had such an opportunity. According to the free-to-air people, the best case in point of where the loophole has been exploited is the rights to the 2005 Ashes tour, which of course has been the subject of significant discussion and debate in the community, right around the country. Free TV argues that Fox Sports purchased the rights to the 2005 Ashes tour before any rights were offered to free-to-air broadcasters and then, when they were offered to the free-to-air people, they were only on a non-exclusive basis. Fox Sports argued that free-to-airs were approached before Fox Sports purchased the rights. Frankly, it seems that the jury is still out on this matter and there appears to be confusion resulting from informal and formal discussions; perhaps the perception of the processes is somewhat in the eye of the beholder.

Once again, it has been up to the Senate committee process in particular to examine these issues and determine as objective a view as possible and a view that is likely to serve the best interests of the Australian public, rather than specifically look at the commercial interests of competing operators. It is a process that Senate committees have done exceptionally well—not perfectly by any means, but nonetheless, exceptionally well—for quite some time, and it is worth taking the opportunity to note the necessity of ensuring that Senate committees are still able to operate in that way after 1 July. After 1 July, of course, the government will have control of the Senate and both houses of parliament and has the opportunity to curtail the Senate committee process—the number of inquiries, the length of inquiries or the nature of inquiries that the Senate undertakes.

The government also has the opportunity, even if it allows the process to continue to operate, to ignore much or all of what the committees discover. It will be absolutely critical to try and ensure that that process continues to operate as effectively as possible. It is certainly something that I will continue to focus on, because it is in the public interest to make sure that as many views as possible are taken into account. The parliament is not just an opportunity for vaudeville and soap opera to entertain people, even though it might seem that way. It is actually a mechanism for determining the laws of the land that affect people’s lives in all sorts of ways, and we do need to make sure that it operates as objectively and effectively as possible.

Using the example of the Senate committee inquiring into this bill, in their report on page 14 they say:

… it is not the intention of the anti-siphoning rules to provide free-to-air broadcasters with exclusive … rights to a listed event, it is important to note that the rights were sold to Fox Sports on a non-exclusive basis, meaning that they were still available to free-to-air broadcasters. Ultimately, the decision as to whether or not to acquire these rights is a commercial one for the broadcasters concerned.
The Senate committee report also noted on page 17:

When queried about whether the ‘privileged position’ was maintained where a channel provider has purchased rights (non-exclusive) prior to free-to-air broadcasters securing rights, Ms Debra Richards from ASTRA stated:

Certainly, because the operator cannot actually broadcast the event until the free-to-air broadcasters have obtained those rights or decided they did not want them or do not want to show them and the event is delisted. So they still retain that.

The subscription TV providers, of course, oppose the loophole amendment and argue that the amendment will significantly change the nature of the industry—that, for example, it would make it difficult for them to negotiate multiyear deals. The National Rugby League submitted that closing the loophole would hamper its ability to negotiate television arrangements and make other strategic plans to assist in the development and growth of the sport in Australia.

If we turn to the intention of the provision, the free-to-airs argue:

It would seem that at the time those responsible for the legislation believed that pay TV would operate in a manner similar to free-to-air television in that all content providers would be licensees. The technical distinction between channel providers and licensees was not anticipated.

This belief was supported by the Senate committee report, which stated:

… when the legislation was drafted, subscription television was in its infancy, and specific channel providers like Fox Sports did not exist in Australia.

This is further supported by evidence provided in Free TV’s supplementary submission to the committee, where they note:

… the same assumption was made in the first drama expenditure rules for subscription television in the Broadcasting Service Act. Originally the rules only applied to licensees, but it was subsequently realised that this did not cover most of the entities actually responsible for the content of the service. That part of the Act was subsequently amended to specifically capture channel providers …

But the most compelling argument in support of closing the loophole—as has partly been alluded to already by Senator Conroy—is actually in the government’s explanatory memorandum to this bill. The explanatory memorandum states:

The BSA—

Broadcasting Services Act—contains provisions which prevent subscription television broadcasting … licensees from acquiring exclusive broadcast rights to events, the televising of which the Minister for Communications, Information Technology and the Arts considers should be available free to the general public.

It continues by stating that subscription TV licensees:

… must not acquire broadcast rights to a listed event unless free to air broadcasters have previously acquired broadcast rights to that event …

It is clear from this statement what the intentions of the provisions are. That a subscription TV content provider can acquire broadcasting rights before free-to-airs clearly goes against the stated intent of the legislation. For these reasons, the Democrats support an amendment. But while we support an amendment to rectify what we believe was an unintentional anomaly, the Democrats are sympathetic to some of the problems which the current regime creates for subscription TV operators and some sporting leagues.

The free-to-airs have admitted in the past to giving priority to regular programming over broadcasting an entire match or game. The Premier Media Group cited a recent example where the Seven Network elected to leave coverage of the Australian Open women’s semifinal in New South Wales, Victoria and Tasmania midway through the second set so that they could televise Home and
Away, *Today Tonight* and the news. Of course, if they had had the Senate proceedings on instead, everyone would have rushed across to watch that, but for some reason that has not been put on by the free-to-airs in prime time recently.

I encourage the government to undertake further consultation with pay television and the free-to-airs to consider further changes to meet the needs of the Australian sport-viewing public and the commercial imperatives of TV operators, sporting leagues and sponsors, starting with regular monitoring of the amount of broadcast coverage of listed events.

Finally, I have a concluding comment regarding the FIFA World Cup for soccer—or what we are trying to more regularly call football in Australia. Senator Conroy mentioned this and recent decisions in relation to it. I note the ongoing campaign by Senator Conroy and others to try to ensure that the World Cup football tournament is able to be viewed by Australians on free-to-air television. I could engage in personal observations about the desirability of that particular activity as opposed to other sporting endeavours, but this probably is not the time or the place. I simply indicate that it is certainly appropriate for that event to be available for Australians to watch without having to subscribe to a pay TV operator.

I hope Senator Conroy has not put the mocker on the Australian football team in suggesting that it is a done deal that they are at the World Cup. As past experience shows, there is still a lot of interest for Australians in watching that event, regardless of the sad absence of an Australian team since 1974—but I am sure that they will be there again. It is some indication of the rich tapestry of nations that Australians have come from over the years. It also suggests the strong interest in significant sporting events of a large section of the Australian community. So with those comments—I will speak relatively briefly in the committee stage if we get to that—I think it sufficient to conclude that we will be supporting this legislation. As I have indicated, we have sympathy with the amendments that have been foreshadowed.

**Senator EGGLESTON** (Western Australia) (6.04 p.m.)—The provisions of the Broadcasting Services Amendment (Anti-Siphoning) Bill 2004 have been the subject of an inquiry by the Senate Environment, Communications, Information Technology and the Arts Committee over the last two weeks. The committee received 14 submissions and held public hearings in Canberra on 21 and 28 February this year. The purpose of the antisiphoning scheme is, as has been said, to ensure that certain sporting events are widely available to consumers by preventing subscription television licensees from acquiring exclusive rights to events which are on the antisiphoning list.

The policy rationale of the antisiphoning regime is to give free-to-air broadcasters an opportunity to acquire the broadcast rights to important sporting events without having to compete against pay-TV operators. It aims to maximise the amount of sport available on free-to-air television. The former minister for communications, the Hon. Daryl Williams, described the policy rationale for the regime thus:

To protect the access of Australian viewers to events of national importance and cultural significance by giving priority to free-to-air television broadcasters in acquiring the broadcast rights to those events.

When pay TV commenced in Australia there was concern that major television sports events would migrate or be siphoned from the free-to-air networks to pay TV. While the popularity of pay TV is growing, fewer than one in four households in Australia have access to subscription television. Thus the ra-
tionale for the antisiphoning regime remains valid—those who have only free-to-air television can watch the listed events, or have the opportunity to do so. Under section 115(1) of the Broadcast Services Act 1992, the Minister for Communications, Information Technology and the Arts can gazette a list of events which the minister believes should be available to the public on free-to-air television. However, listing does not guarantee that these events will be screened on free-to-air television and such a decision is ultimately a commercial matter for the broadcaster concerned. That is a very relevant fact to bear in mind in the discussion on this issue.

Under the antisiphoning regime, subscription television licensees are prevented from acquiring a right to televise a listed event until such time as a right has been first acquired by the ABC, SBS or commercial free-to-air broadcasters reaching more than 50 per cent of the population. It is clear that the intention of the legislation was not to reserve specific events solely for free-to-air or to guarantee exclusive rights to free-to-air. The explanatory memorandum for the bill that introduced the provisions back in 1992 stated that the ‘process should ensure, on equity grounds, that Australians will continue to have free access to important events—it will, however, also allow subscription television broadcasters to negotiate rights to provide complementary, or more detailed, coverage of events’.

Some examples of events on the antisiphoning list at present include the Melbourne Cup, each match of the AFL premiership and finals, each match of the NRL premiership and finals, each rugby union match involving Australia and each match in the Rugby World Cup, each cricket test match involving Australia, and each match of the Australian tennis open and Wimbledon. Other sports included on the antisiphoning list are soccer, netball, golf and motor sports as well as the Olympic Games and Commonwealth Games. The inclusion or removal of an event on the list is a matter on which the Minister for Communications, Information Technology and the Arts has complete discretion. On 7 April 2004 the then Minister for Communications, Information Technology and the Arts, the Hon. Daryl Williams, announced that the government ‘had updated the antisiphoning list to better reflect the attitudes of Australians and the commercial realities of the sporting and broadcasting sectors’. The new list will apply from 1 January 2006 until 31 December 2010.

As I said, the Commonwealth Games and the Olympic Games have been added to the new list but otherwise it has been streamlined through the removal of a number of events, including basketball, overseas Formula 1 grand prix and motorcycle grand prix events, Australian National Soccer League events, the US Open golf and the Hong Kong Sevens rugby. The minister noted that many of the events to be removed from the list have received little or no free-to-air coverage despite their listing.

The antisiphoning scheme is complemented by an antihoarding scheme which came into effect in 1999 and is aimed at preventing free-to-air broadcasters from hoarding rights to live coverage of events that they do not broadcast. The antihoarding provisions require commercial television licensees who acquire the right to televise a designated event but who do not propose to fully utilise the right to offer the unused portion to the ABC and SBS for a nominal charge.

An automatic delisting period of six weeks for those sporting events which free-to-air television licensees have not demonstrated any interest in acquiring broadcast rights to came into effect with the passage of the legislation in 2001. However, it is impor-
tant to note that automatic delisting of an event will not occur if the minister has published a declaration under section 115(aa) of the Broadcasting Services Act and that the event continues to be specified in the notice. The minister may only publish such a declaration if the minister is satisfied:

That at least one commercial television broadcasting licensee or national broadcaster has not had a reasonable opportunity to acquire the right to televise the event.

In April 2004 the minister for communications announced that the automatic delisting period would be doubled from six to 12 weeks. This bill gives effect to that announcement. According to the explanatory memorandum, this amendment is needed because:

Where no free-to-air broadcaster is interested in acquiring the rights to an event on the antisiphoning list, the automatic delisting of the event six weeks before it occurs has proved insufficient time for pay television operators to acquire the rights, finalise program schedules, negotiate advertising contracts and promote the event. Extending this period to 12 weeks will provide additional certainty to industry.

The submissions from the subscription TV sector to the inquiry were supportive of the extension of the automatic delisting period. They noted that the extension of the automatic delisting period will give subscription TV operators a longer period in which to acquire events and make appropriate arrangements for their broadcasting. The Australian Subscription Television and Radio Association, ASTRA, supported the extension of the automatic delisting period from six to 12 weeks describing it as ‘a reform that at least attempts to redress the anti-competitive nature of the scheme’. They added that ‘a period of 12 weeks is obviously timelier and more useful that the current automatic delisting period’.

ASTRA acknowledge that ‘the bill attempts to better balance the interests of subscription television and free-to-air television broadcasters and will improve the efficiency of operation of the delisting provision of the antisiphoning scheme to the benefit of sporting bodies and viewers’. They also noted that ‘a 12-week period provides a better opportunity for subscription television operators to acquire rights to events and market and promote those events to subscribers and potential subscribers’.

Premier Media Group endorsed ASTRA’s submission and observed that this administrative reform will have a positive efficiency effect because, once the twelve-week automatic window is in place, it is likely that there will be fewer requests made of government and far more use of the automatic delisting procedure. They concluded that this will reduce the resource strain and time spent by the Australian Broadcasting Authority in responding to formal requests to delist events. PMG described the current six-week delisting period as being too narrow and said that sufficient time is needed to make the necessary arrangements for coverage, stating that each of the subscription television distributors and PMG itself need sufficient time to ensure that appropriate coverage plans for the relevant events are in place.

The committee also received submissions from the AFL and the NRL which supported the extension of the automatic delisting period. In particular, the AFL noted:

All sporting organisations and their broadcasters seek to finalise broadcast plans well in advance in order to make appropriate logistical, operational and marketing plans. A 12-week period is much more appropriate than the current six-week period as it will enable sports bodies to better plan their works and allow broadcast partners greater certainty about broadcast arrangements.

While the extension of the automatic delisting period provided for in this bill has been
welcomed by the subscription TV industry, representatives of the free-to-air TV broadcasters indicated that they are opposed to this extension. In particular, free TV justified its opposition on the basis that the extension would provide ‘greater opportunities for subscription broadcasters and rights holders to circumvent the antisiphoning rules by stringing out negotiations for rights until the event is automatically delisted’.

This argument is based on a view that sports bodies will be able to attract larger revenues from subscription TV licensees where they hold exclusive broadcast rights—something that is possible only once an event has been delisted. However, the minister does have the discretion to override automatic delisting. In a situation where a rights holder has strung out negotiations with free-to-air broadcasters with the deliberate intention of automatic delisting coming into play—that is, not bargaining in good faith—it could be plausibly argued that the free-to-air broadcasters had not been given a reasonable opportunity to acquire the rights to the event and it would therefore be open to the minister to exercise discretion to override automatic delisting. This tends to mitigate the concerns expressed by free TV.

Given that this is a simple bill that doubles the existing delisting period, to a large degree the attention of the committee was focused on matters which were, strictly speaking, tangential to the bill. In particular, the issues of the so-called loophole and the broadcast rights to the Ashes cricket series were consistently raised. The antisiphoning list does not prevent third parties, such as channel content providers, from acquiring broadcast rights to a listed event prior to either its delisting or acquisition by a free-to-air licensee. While these third parties cannot themselves broadcast the rights, they can trade them to a licensee. This is the so-called loophole which was referred to in the hearings and which has been the subject of debate for a number of years.

Free TV contends that the intent of the antisiphoning regime is being circumvented by the so-called loophole. Its major concern is that, once a channel provider has rights, it is no longer as commercially attractive for free-to-air operators to pick up those rights because they would not be available on an exclusive basis. However, it was never the intention of the antisiphoning rules to provide free-to-air broadcasters with exclusive access to the broadcasting rights to a listed event. The broadcast rights to the Ashes cricket series were submitted to the committee as an example of the apparent loophole at work. The committee received claim and counter-claim about the negotiations of the broadcast rights. However, I note that it is not the committee’s role to adjudicate on this matter, and the committee came to no conclusion about who had a better or more righteous case.

What was apparent to the committee was that, whilst Fox Sports, a channel content provider, had purchased the rights to the Ashes series, it had done so on a non-exclusive basis. Bearing in mind that it was never the intention of the antisiphoning rules to provide free-to-air broadcasters with exclusive access to the broadcasting rights to a listed event, it is important to note that the rights were still available to free-to-air broadcasters. The free-to-air broadcasters could have negotiated these rights with the England and Wales Cricket Board at any time. Ultimately, the decision as to whether to acquire these rights is, I repeat, a commercial one for the broadcasters concerned. In passing, I would note that last week SBS was successful in obtaining the free-to-air broadcast rights to the Ashes.

Nevertheless, to the extent that third parties, such as channel content providers, can
acquire broadcast rights to a listed event prior to either its acquisition by a free-to-air broadcaster or its delisting, the question has arisen as to whether the intention of the antisiphoning scheme is being circumvented. Accordingly, the committee has recommended that the Minister for Communications, Information Technology and the Arts should consider examining the issue of the so-called loophole and determine whether the intent of the antisiphoning scheme is in fact being circumvented. The committee has recommended that this bill be passed without amendment, and I commend it to the Senate.

Senator SANTORO (Queensland) (6.21 p.m.)—At the outset, let me say how pleased I was to see SBS win the right to broadcast the Ashes test cricket series from England later this year. As others have noted, this is something of a departure for SBS, which many people still think of, inaccurately, as fundamentally 'the ethnic channel'. Many people had thought that the ABC would end up with the free-to-air broadcasts that are mandated under the rules of the legislation, as amended, that we are debating this afternoon. But perhaps they had taken their eye off the ball. Maybe they were all off at the World Conference of Semantic Prognosticators at the time. They might have been busy that day debating the finer points of an entirely different form of spin—for example, exactly how many ways it might be possible to describe the military as 'lying bastards' and get away with it. Anyway, the upshot is that SBS won the toss and gets to take its bat and ball to the wicket rather than home, like its big brother from Ultimo. Congratulations to them. Well played. As honourable senators know, I have had, and I am having, some difficulties with SBS in other areas. But credit should always be paid where it is due, and it is certainly due in this instance.

I am mindful that debate must be relevant to the matter before us. I am mindful too that in the debate in the other place on this bill last month, my new and enthusiastic, capable colleague the member for Bowman had a little go at the member for Lowe—who had spoken immediately beforehand—who was speaking about everything other than the bill. I certainly do not want to fall into that trap. While the substance of the bill is what is before us today, I do want to examine the additional comments of Labor senators which are recorded in the report of the legislation committee on the provisions of this bill. Senators Conroy and Lundy said that they had found a loophole in the bill, largely as a result of public concern that the 2005 Ashes test cricket series would not be shown on free-to-air television. To be precise, they said that free-to-air broadcasters contended that the commercial viability of broadcasting the series had been undermined by a loophole in the antisiphoning regime. To what extent this problem exists in any form other than as an impediment to monopoly rights to broadcast is unclear.

Pay TV is a fact of life. Regulating commercial broadcasting is certainly a more complex affair than it once was because of this factor. But public broadcasters have charters—and get very substantial public funding—to serve the public, not the private shareholders. The Australian Broadcasting Authority told the committee examining the legislation that it was taking an active interest in the question of whether there is a loophole in the antisiphoning regime. I would suggest to all honourable senators that that is good. That is the sort of work the ABA is paid to perform and which it will continue to perform in its new and expanded role after 1 July.

In terms of the general sweep of the antisiphoning provisions, this amending bill is minor. Its purpose is to extend the automatic delisting of an event from six weeks to 12 weeks before it occurs to ensure that pay
television operators have sufficient time to acquire the rights—if they wish to do so—to finalise program schedules, negotiate advertising contracts and promote the event. In a strong pay TV environment, that is only fair. Antisiphoning rules were imposed because there was concern, when pay TV commenced in Australia, that major television sports events would migrate, or be siphoned, from the free-to-air networks. The scheme exists, as the former minister for communications, the Hon. Daryl Williams QC, stated last year, to protect the access of Australian viewers to events of national importance and cultural significance on free-to-air television by giving priority to free-to-air television broadcasters in acquiring the broadcast rights of those events.

That is very sensible public policy and it is a policy that no-one could legitimately complain about. It works by preventing pay TV operators from siphoning off television coverage of these events—the ‘listed’ events—before free-to-air broadcasters have had an opportunity to obtain the broadcasting rights. The six-week automatic delisting period, which is triggered by circumstances in which free-to-air broadcasters have not picked up broadcast rights, came into effect with the passage of legislation in 2001. In April last year, the then minister announced that the automatic delisting period would be extended to 12 weeks. This bill gives effect to that decision. The original legislation, which was introduced in 1992, never intended to reserve specific events exclusively for free-to-air television or to guarantee exclusive rights to them. Thus the antisiphoning scheme does not give free-to-air broadcasters exclusive access to the broadcasting rights to a listed event—they are all sporting events, incidentally—but provides a priority to acquiring those rights if they choose. They are not obliged to acquire the rights. To that extent it is a free market, albeit one that is regulated to the extent that the rights of all Australians to access free-to-air broadcasts of important events are protected.

Under the existing legislation, and under the amended legislation as proposed, if a free-to-air broadcaster acquires the rights to broadcast an event, a pay TV operator may also acquire a right to broadcast the same event. It is interesting in the context of today’s debate that the government will add the 2010 FIFA World Cup—the world game that SBS has done so much to promote here in Australia—to the list of events protected under the antisiphoning provisions of the Broadcasting Services Act 1992. As the Minister for Communications, Information Technology and the Arts said in her media statement on the matter issued this afternoon, the listing of this event ensures that Australia’s free-to-air broadcasters will have an opportunity to acquire broadcast rights. The 1992 legislation was designed to create a process that would ensure on equity grounds that Australians would continue to have free access to important events. That provision, under this bill, is still robustly in place.

This government stands for enterprise, entrepreneurship and competition, and it does so unashamedly. But it does so in the context of this legislation with a strong sense of the need to protect the rights of Australians who do not have access to pay TV—and only a quarter of Australians do. Free-to-air television in this country is, by a margin of three to two, predominantly a wholly commercial operation. The three commercial networks operate in a high-cost commercial environment. The ABC and SBS are our public broadcasters, funded by the taxpayer. As mentioned before, they have charter obligations to the people, and quite properly so. It is this environment in which we must operate as legislators, and it is in that context that we should assess commentary by pay TV operators about the antisiphoning rules. In that
context, I note the comments made in April last year by the Hon. Nick Greiner, the Chairman of the Australian Subscription Television and Radio Association, the peak body representing subscription television. Mr Greiner was disappointed that the government had not adopted a ‘use it or lose it’ approach to antisiphoning. He said:

The government’s move to extend the automatic de-listing from six weeks to 12 weeks is a step forward, but the overall changes do not address fundamental problems with the scheme. The new list still includes a large range of events which are never covered by the free-to-air television networks. There is no logical reason why they should remain there.

I should say before I make the following statement that the Hon. Nick Greiner is one of the outstanding former legislators of this country and a very sensible person. It was a real pleasure to interact with him in the course of the inquiry, in which I participated, an inquiry so ably led by my senatorial colleague Senator Eggleston, who spoke before me. But I would say to the Hon. Nick Greiner that what he stated is not really the case. Circumstances change and, more importantly, audiences demand change. I see one of my honourable colleagues opposite smiling at me in a benign and agreeing way, obviously seeing how reasonable most of us, if not all of us, on this side of the house can be when considering and debating sensitive and important issues such as the one we are debating tonight.

It would not be good policy to strike from the antisiphoning list everything that, to this point, the free-to-air sector has not taken up. To do so, as I am sure the proponents of such action understand very well indeed, would be to effectively corral an ever-expanding compendium of events for the benefit of pay TV and its audiences. There is broad support for the existing arrangements, and, except for quibbling around the edges of the debate, that support extends across the broad spectrum of political views contained within our parliament, including in this chamber. I think that is a good thing.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (6.31 p.m.)—I thank all senators for their contributions and comments in relation to this important bill. It is now my pleasure to sum up the Broadcasting Services Amendment (Anti-Siphoning) Bill 2004. In April 2004 the government announced changes to the antisiphoning provisions of the Broadcasting Services Act 1992. In the government’s view the antisiphoning scheme, despite its complexities—and I think we all have to acknowledge those—is still needed. With fewer than one in four households having access to subscription television at this time, it remains important to ensure that as many viewers as possible are able to access events of national significance and cultural importance on free-to-air television.

In addition to extending the antisiphoning scheme and developing a revised list of events, the government committed to extending the automatic delisting period from six to 12 weeks, as has been noted by earlier speakers. The Broadcasting Services Amendment (Anti-Siphoning) Bill 2004, which gives effect to that commitment, is designed to improve the efficiency of the operation of the delisting provisions of the antisiphoning scheme to the benefit of sporting bodies and viewers. Extending the automatic delisting period to 12 weeks will allow pay TV operators a reasonable opportunity to acquire broadcasting rights, to arrange coverage and indeed to market the programs to viewers.

Of course, it remains possible for events to be delisted earlier than the automatic period by making an application to the Minister
for Communications, Information Technology and the Arts. In that instance, the minister may remove a particular event from the antisiphoning list—for example, if the minister is satisfied that the free-to-air broadcasters have had a reasonable opportunity to acquire the rights but have declined to do so. Critically, for current purposes, the existing protections for free-to-air viewers remain in place. The minister will retain the ability to keep an event on the antisiphoning list beyond the automatic delisting period if the free-to-air broadcasters have not had a reasonable opportunity to acquire the free-to-air rights to that event.

I want to say a couple of words in respect of the 2010 FIFA World Cup. It is true that there have been a number of representations to the government in respect of this particular event. The government has always stated that it is continuing to monitor the operation of the antisiphoning scheme to ensure that it reflects the attitudes of Australians and of course the commercial realities of the sporting and broadcasting sectors. The antisiphoning list is designed to protect a limited range of events which are considered to be of national importance and cultural significance. This is a select list, and events should not be added to it unless they meet the criteria for protection. As I said, there have been a number of representations. There have been calls from soccer fans for the 2010 FIFA World Cup soccer to be included on the antisiphoning list. Those who follow these matters closely will of course recall that the 2002 event and the 2006 event had previously been listed.

The government has considered the issue again in the light of all these circumstances and according to the criteria and principles that I have just described. We have decided that it would be appropriate to include the 2010 World Cup soccer on the antisiphoning list. As I announced today, I will be taking the necessary steps to have the event included on the list as quickly as possible. I acknowledge that the inclusion of the event will have an impact on the pay television sector. I remind those people listening and those interested in these matters that the inclusion of an event on the list does not necessarily mean that the event will be shown free to air or that it will be broadcast live or in full. But it does preserve a right of first refusal for the free-to-airs to bid for. What it means is that free-to-air broadcasters have a real chance to acquire the rights to the event if they are interested in doing so. Whether or not they wish to do so is of course a commercial matter for them.

I am also aware that Senator Conroy proposes to move shortly an amendment in respect of what is referred to—incorrectly, I think, but it does have some currency—as a loophole. I have a number of comments in respect of that matter and signal that the government will not be supporting the amendment. Senator Conroy has indicated that he wishes to make some comments in relation to the rationale for the amendment, and the basis upon which Labor moves it, during the committee stage. I reserve my comments until the committee stage but otherwise thank all those who contributed to this debate. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator CONROY (Victoria) (6.38 p.m.)—I move:

(1) Schedule 1, page 3 (after line 4), before item 1, insert:

1A  After subsection 115(1)
Insert:

1AAA  Any notice in effect in accordance with subsection (1) must include a reference
to each match in the Fédération Internationale de Football Association World Cup (FIFA) finals tournament as being an event of the kind specified in subsection (1).

This amendment gives statutory affect to the announcement that was made by Senator Coonan. I repeat that we welcome the change of heart by the government to relist the FIFA World Cup. I seek clarification from the minister. Will she be moving that the 2010 World Cup be put back on, or will she just be putting the FIFA World Cup back on? It is an important distinction.

Senator Coonan—Just the 2010 World Cup.

Senator CONROY—Thank you, Minister. Labor’s amendment will attempt to ensure that the arguably largest sporting event in the world, the FIFA World Cup, can never again be delisted. We believe this is necessary given that, following an extensive investigation by the ABA—which, it should be said, recommended keeping the World Cup on the list—the government of the day chose to delist it. This has caused an outcry around the country. Around 14.5 million Australians watched the last soccer World Cup. It was amazing to see the government make this decision. To ensure that this cannot recur in the future, I propose the amendment to ensure that the soccer World Cup is permanently listed on the antisiphoning list.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (6.40 p.m.)—I respond to this because I think Senator Conroy has made a number of statements in support of the amendment that should not go without the government recording a point of view on them. The government’s view is that the amendment is both unnecessary and, dare I say it, even dangerous.

World Cup soccer, I accept, is obviously a very popular event which fans have enjoyed watching on free-to-air television. I acknowledge that there have been calls from soccer fans for inclusion of the 2010 FIFA World Cup on the antisiphoning list. The issue has arisen again in the context of the debate around the Ashes and the bill to extend the delisting period. As you know, the government have considered the issue again as, indeed, we said we would. We keep these things under review. We have decided that it would be appropriate to include the event on the list. As I have said, I will take the necessary steps to ensure that that happens as quickly as possible. It will involve approval of a notice adding the event to the antisiphoning list, the tabling of the notice and an explanatory statement. The notice is subject to disallowance by either house of parliament within 15 sitting days of tabling. It does not involve, nor does it require, an amendment to be made to the Broadcasting Services Act.

The government have always said that we will continue to monitor the antisiphoning list to ensure that it appropriately reflects the attitudes of Australians and the commercial realities of the sporting and broadcasting sectors. There is a balance to be struck in those objectives. I do remind those who are passionate about this matter that inclusion on the antisiphoning list does not necessarily mean that an event will be shown free to air or that it will be broadcast live or in full; it simply improves the chances. It does mean that free-to-air broadcasters have a real chance to acquire the rights to the event if they are minded to do so. Whether or not they wish to do so, however, remains a commercial matter for them. I think we must not forget that.

I am sure that the decision to include the 2010 World Cup on the antisiphoning list is something that all Australian soccer fans will welcome. However, the amendment would have the likely effect of preventing the min-
ister from delisting the World Cup in the event that free-to-air broadcasters do not acquire the rights, thereby circumventing the intention of the scheme. I would suggest that Senator Conroy reflect upon that, because the intention of the scheme would be thwarted, I would have thought, if the amendment were passed. While it is less clear, it is also possible that the amendment would override the automatic delisting provisions of the act which operate to delist the event six weeks before its occurrence—or 12 weeks, as specified in the bill under consideration—and also its delisting after the occurrence of the event, which enables pay TV licensees to broadcast highlights or news reports of the event.

In short, the amendment does introduce a degree of inflexibility which underpins that it is a flawed approach of using primary legislation to alter what has always been under successive governments, and no doubt will continue to be, an effective regulatory approach to a very difficult scheme. It hangs together because the various components of it work. This amendment would stymie the purpose of the scheme.

Senator CONROY (Victoria) (6.44 p.m.)—Thank you, Minister, for those words. While I absolutely take on board your comments that it is perhaps a blunt instrument to try and resolve this, and while I certainly take your word and the good faith with which you put it forward, you will not always be the Minister for Communications, Information Technology and the Arts. I know, because I know you are going to get promoted one day to higher office. I have to say, while I trust your word, I am a bit suspicious about a couple of your colleagues. In a few years time, when you have moved on to higher things, this amendment will mean that soccer fans in this country can rest easy. It will be a little harder to actually remove this. It will require an amendment in parliament. So it is not impossible for it to be ultimately removed if free-to-air do not want to purchase it, but this will give comfort to the many hundreds of thousands and millions of soccer fans around Australia. So I urge the Senate to support this amendment and I hope that it is successful.

Question agreed to.

Senator CONROY (Victoria) (6.47 p.m.)—by leave—I move:

(1) Schedule 1, page 3 (after line 20), at the end of the Schedule, add:

3 Paragraph 10(1)(e) of Schedule 2
Repeal the paragraph, substitute:

I have lived through the last couple of qualifying campaigns. I was at the MCG that night when we led 2-0 against Iran, and I still have memories. I already had my holiday to France booked. I still went, and I had a great time. I got to go to the semifinals and finals of the World Cup, despite the fact Australia had been knocked out after being so tantalisingly close. We led 1-0 against Uruguay—it was a great win against Uruguay in the first leg, the home leg—to ultimately go down away from home. I have every confidence that Frank Farina and the boys will get there this time, certainly with a fairer allocation of World Cup spots. I hope that the Soccer Federation—or the Football Federation, as they want to call themselves now—are able to negotiate with FIFA so that Oceania, our group, gets automatic qualification. That will mean that the Socceroos have a very strong chance of qualifying in the future.

While, as I said, I certainly trust your good wishes and bona fides on this, Minister, I am a little suspicious about a couple of your colleagues. In a few years time, when you have moved on to higher things, this amendment will mean that soccer fans in this country can rest easy. It will be a little harder to actually remove this. It will require an amendment in parliament. So it is not impossible for it to be ultimately removed if free-to-air do not want to purchase it, but this will give comfort to the many hundreds of thousands and millions of soccer fans around Australia. So I urge the Senate to support this amendment and I hope that it is successful.

Question agreed to.
the licensee will not acquire the right to televise, on a subscription television broadcasting service, a commercial television broadcasting service or a national broadcasting service an event that is specified in a notice under subsection 115(1) unless:

(i) a national broadcaster has the right to televise the event on its broadcasting service; or

(ii) the television broadcasting services of commercial television broadcasting licensees who have the right to televise the event cover a total of more than 50% of the Australian population;

(eaa) the licensee will not communicate to the public, or permit to be communicated to the public, on a subscription television broadcasting service an event to which the right to televise has been acquired in breach of subparagraph 10(l)(e)(i);

(2) Schedule 1, page 3 (after line 20), at the end of the Schedule, add:

4 After subclause 10(1B)

Insert:

(1C) For the purposes of paragraph (1)(e), if a related party of a subscription television broadcasting licensee acquires the right to televise an event, the licensee is taken also to have acquired the right. For this purpose, related party of the licensee means:

(a) a person who is in a position to exercise control of the licensee; or

(b) a person in respect of whom the licensee is in a position to exercise control; or

(c) a person who is in a position to exercise control of a person mentioned in paragraph (a) or (b); or

(d) a person in respect of whom a person mentioned in paragraph (a) or (b) is in a position to exercise control.

As I mentioned in the second reading debate, the intention of the antisiphoning regime is to limit the likelihood that events that have traditionally been shown on free-to-air television will migrate exclusively. Labor believes that the ability of third parties such as channel providers to acquire events before the free-to-air networks have the opportunity undermines the effectiveness of the regime. These amendments are not about guaranteeing free-to-air broadcasters exclusive coverage, but they do seek to ensure that the free-to-air broadcasters get the opportunity to buy the rights to list events. I emphasise again: in Labor’s view this is consistent with the original intent of the antisiphoning regime.

The first item on the page replaces the existing licence condition in paragraph 10(1)(e) of schedule 2 of the act with a new, stronger condition. One of the key changes made is that, under the new condition, licensees will be specifically prohibited from buying the free-to-air rights to listed events unless a commercial broadcaster has already acquired those rights. The other major change is contained in subparagraph (iv) of the new licence condition. This makes clear that pay TV licensees are not able to communicate an event to the public which is included on the antisiphoning list unless the rights to the event have already been acquired by a free-to-air broadcaster. This new provision is intended to settle the debate about whether a pay TV licensee could broadcast an event even if it has not acquired the rights. The Senate committee noted that this issue was not settled. The department and free TV presented conflicting advice on the matter.

Progress reported.

DOCUMENTS

The ACTING DEPUTY PRESIDENT (Senator Bolkus)—Order! It being 6.50 p.m., the Senate will proceed to the consideration of government documents.
Senator BARTLETT (Queensland) (6.50 p.m.)—I move:

That the Senate take note of the document.

The annual report from the Migration Agents Registration Authority is reasonably late in the piece, due, I understand, to issues within the Department of Immigration and Multicultural and Indigenous Affairs. I followed the development of the Migration Agents Registration Authority with some interest, in part because it was the first significant piece of legislation I had to deal with at relatively short notice when I first came into the Senate back in 1997. Therefore it has been of personal interest to me to see how things have panned out since then. It has been an area of ongoing contention. Many members of parliament, both in the Senate and in the lower house, would have had experience with constituents with migration problems and issues. The Migration Act is an area of law that affects literally millions of Australians in all sorts of ways, mostly without too much of a problem. But, as within many areas of the law, when you run into difficulties it can be extremely difficult.

The migration agent profession is still developing and, in many ways, it is still in its infancy. But, because of the way the Migration Act can impact on people’s lives and futures, it is a very significant one. People need quality advice, many times, to get the best outcome and to get their rights enforced. They need to be confident that they will get good advice from people who hold themselves out to be migration agents. They need to be confident that there is some form of redress if they run into difficulties. It is worth noting a few things from the report. Firstly, over 3,250 agents were registered at the end of June last year. That figure is up on the previous year. The vast bulk of those are commercial or for-profit agents, but I would like to mention the 271 non-commercial and non-profit agents, most of whom work for community legal centres and provide pro bono advice, particularly for people who are without adequate means of support—refugees or others who have run into difficulties and need that sort of advice. They play a vital role.

The authority, the MARA, continues to provide investigations into areas of complaint and continues to provide a continually developing area of professional education and development for migration agents. Certainly all the evidence that I have seen is that it is continuing to do that in an ever-improving way. This whole area of professional development is continuing to evolve. The authority—and the Migration Institute, which is closely associated with it—continues to ensure that it evolves effectively. We have had significant changes to the law affecting migration agents in recent times and I expect we will have more significant changes over the coming months and years. It is very important that there is stability and coherent leadership in this profession, particularly given the unique and fairly unusual role that the MARA plays in relation to that.

I would like to also take the opportunity to note the contribution of the outgoing president of the MARA, Ms Laurette Chao, who stood down from that position at the last AGM, and to welcome on board Mr Len Holt, a Queenslander, who will go into that onerous and important role. Ms Chao will stay on the board as well. I know they will both continue to make an effective contribution to ensure this authority operates effectively and ensure that migration agents provide an ever-improving level of service to the many people who need it, particularly given the less than ideal way that the migration law is sometimes administered by this government and by the department. To have
such a body of expertise is absolutely invaluable. *(Time expired)*

Question agreed to.

**ADJOURNMENT**

The **ACTING DEPUTY PRESIDENT (Senator Moore)**—Order! There being no further consideration of government documents, I propose the question:

That the Senate do now adjourn.

**Australian Defence Force: Personnel**

**Senator MARK BISHOP** (Western Australia) (6.56 p.m.)—I rise this evening to commemorate the men and women of the Australian Defence Force who have made contributions to world peace by serving as both peacekeepers and observers in more recent years. In particular, I want to briefly pay tribute to those who served in Rwanda.

On 6 April 1994, a plane was shot down as it landed in Kigali. It was carrying the Rwandan President and the President of Burundi. The downing of this aircraft seems to have been a signal to military and militia groups, who began rounding up and killing Tutsis and political moderates. Between 6 April and the beginning of July 1994, up to one million Tutsis and moderate Hutus—men, women and children—were killed at the hands of organised bands of militia. This was genocide of unprecedented swiftness. Even ordinary citizens were called on by local officials and government sponsored radio to attack and kill their neighbours. This massive genocide and war resulted in the destruction of much of the country’s economic infrastructure, including utilities, roads and hospitals.

It is important to know that Rwanda in 1994 and 1995 was a place of complete upheaval and unspeakable horror. It was into this upheaval and horror that, 10 years ago, the Australian Defence Force deployed the second contingent of around 300 service personnel. They were mainly medical personnel, who were sent to replace the first contingent that was sent some months earlier. The key role of both contingents, which came to be known as AUSMED, was to provide health support for the United Nations Assistance Mission in Rwanda. Any spare capacity available to AUSMED was to be used to assist the local people and NGOs. The provision of this spare capacity, though, was simply due to the selflessness, hard work and professionalism of the Australian men and women of both contingents.

Rwanda remains one of the most difficult peacekeeping deployments ever faced by individuals within the Australian Defence Force. This is due to the scale and seemingly indiscriminate nature of the genocide. At the Kibeho refugee camp alone, between 2,000 and 8,000 men, women and children were slaughtered and thousands more were wounded in April 1995. ADF personnel were witnesses to this slaughter. They were armed but unable and not permitted to intervene. They were under orders not to fire on those perpetrating the massacre.

The Rwandan Patriotic Army, the RPA, reportedly conducted executions under the noses of UN personnel in order to goad them into a fire fight. Had this happened, the vastly stronger RPA would have wiped out the UN and NGO presence. The RPA would then have been able to get on with its gruesome work unobserved and unrecorded. It would have also wiped out the source of medical treatment to those being set upon by the RPA.

It is a tribute to the professionalism of those United Nations troops, particularly the ADF participants, that they resisted the urge to open fire or to participate to prevent the massacre. The indiscriminate cruelty and horror made Rwanda a most difficult deployment. ADF personnel also had to match their limited medical resources with a seem-
ingly limitless number of wounded. Many accounts speak of ADF personnel having to play God by deciding which patients’ lives to save. It is probably reasonable to say that the stress endured by our troops in Rwanda was comparable with that suffered in any other conflict that we have been involved in. Such stress takes its toll, despite the professionalism of the men and women of the ADF who were present and serving there.

Research conducted by Hodson, Ward and Rapee shows the toll of that stress on those men and women. It shows that Australian military peacekeepers deployed to Rwanda were exposed to multiple potentially traumatic events. This included witnessing human degradation and misery on a large scale, seeing dead bodies, and the obvious fear of injury or death. This was heightened by the very high proportion of Rwandans infected with HIV. The research also revealed that one in five were still experiencing significant levels of distress up to six years after the deployment. These ADF personnel are people who went and did their duty as required in the great tradition of the Australian Defence Force.

But, and this is the point of the discussion this evening, that peacekeeping in Rwanda is not treated as warlike service under the Veterans’ Entitlements Act. Instead it is regarded as the equivalent of operational service, not carrying any benefits above normal peace-time service. The real question is why peacekeeping service is treated so differently to other overseas service. The long-term effects on many of those who served in Rwanda demonstrate that the effects can be the same. It is understandable that those people compare their entitlements with those of others who have been deployed since, yet often in less dangerous circumstances.

Given this inconsistency, it is little wonder that so many of the peacekeeping veterans now feel so aggrieved. What is at stake for veterans is not just recognition but the entitlements and assistance often needed much later in life when the going gets really tough. The availability of the service pension and the gold card, for example, might provide the assurance they need. It is difficult to do justice to the case of Rwanda peacekeepers in the limited time available. But I do suggest that, when consideration is given to anomalies in entitlements in the future, Rwanda peacekeepers are fairly treated. There can be no doubt as to the horrors experienced and the effects of those experiences on so many individuals in those deployments.

### Multicultural Affairs: Living in Harmony Program

#### Multicultural Affairs: Australian Arabic Council

**Senator TCHEN** (Victoria) (7.04 p.m.)—I rise tonight to report briefly to the Senate on a Living in Harmony activity hosted by the Waverley Softball Association called Pitch to Communities, which I had the pleasure of attending last Saturday. This excellent project, undertaken with the support of a $50,000 grant under the Commonwealth government’s Living in Harmony community grants program, involves primary school age children from mainstream and many diverse communities participating in softball, a low-impact team sport particularly suited for growing children of all ages. The aim of Pitch to Communities is to improve understanding of diversity and assist community harmony by involving primary school age children from small diverse groups—including the Sudanese, Somali and Afghan communities—and their families in a local softball association.

The community grants program is the centerpiece of the government’s Living in Harmony initiative, which aims to promote community harmony and address issues of...
racism in Australia. It relies on local groups to identify relevant issues at the grassroots level and propose projects that address their communities’ needs. Waverley Softball Association’s Pitch to Communities was one of 42 projects in the 2004 round of the program. Apart from the Commonwealth grant, Pitch to Communities is also supported by the Monash City Council, 14 primary schools in the general neighbourhood of the City of Monash and the Somali and Sudanese communities, as well as the Waverley Softball Association and all its members.

The project consists of a 14-week structured softball competition as well as cultural and social activities taking place before and after each game. Parents and community members have actively been involved in all aspects of the project, including coaching. It is anticipated that other community sporting organisations will be able to use this project as a model for reaching out to diverse communities and developing and maintaining participation. The competition rounds finish in March and the project will be formally completed in May 2005.

Waverley Softball Association believes that Pitch to Communities will deliver many benefits to the community, including (1) children will be fitter and develop more team sport oriented skills, (2) the involvement of families and young people in a common activity will facilitate open and improved communication between generational family members, (3) new friendships will be created and a greater understanding of our diverse communities will be established, and (4) mainstream communities will be brought together with new emerging communities.

From my observation, the project has been a great success. I witnessed children and adults, obviously of many diverse backgrounds, working, organising, playing softball and communicating with one another with total and unselfconscious cooperation and enjoyment. I met members of the Somali and Sudanese communities, former refugees, who have come to settle in Australia under our humanitarian offshore resettlement program. I met Aden Ibrahim, who came to Australia in the 1980s as a refugee, learned English, managed to have his qualifications recognised, managed to bring up his family and generally prospered but has never turned his back on others who have had greater difficulties in adjusting to life in an entirely different society from the one they grew up in—and there are many of them—and he has always put his energy into helping others.

Through Aden I met two young Somali sisters—Qali, about 10 years old, and Dhoofo, about 14—who were separated from their family by civil wars, travelled 3½ thousand miles, mostly on foot, across three countries to refugee camps in Kenya, from where they were brought to Australia by a distant relative. It has not been easy for Qali and Dhoofo to settle down. It would not have been easy for anybody with their traumatic experience to settle down, let alone for ones so young and let alone to a way of life so alien to their experience. Miraculously, the news is that Qali and Dhoofo’s parents have been located in Kenya’s overflowing refugee camps, and there is hope that they will be brought to Australia through the humanitarian offshore settlement program.

The problem of adjustment and settling is a problem that Qali and Dhoofo do not face alone. Every young Somali and every young Sudanese will face such difficulties, especially as they enter their teenage years, as every youngster from our diverse communities has experienced—a cultural gap compounded by a generational gap—as young Vietnamese have faced, are facing; as young Lebanese have faced, are facing. They are facing this without any help from pontificating politicians like the New South Wales...
Premier, Bob Carr. By contrast, unselfish, ordinary yet extraordinary Australians, like Aden Ibrahim, from these young people’s own communities and others from other Australian communities, like the members of Waverley Softball Association, have made great and successful efforts to help.

I have a pamphlet produced by the Waverley Softball Association for the Pitch to Communities project, which contains a brief account about Qali and Dhoofo. I seek leave to table this pamphlet.

Senator Carr—What is it?

Senator TCHEN—It is a pamphlet produced by the Waverley Softball Association.

The ACTING DEPUTY PRESIDENT (Senator Moore)—Senator, the opposition would like to see it.

Senator TCHEN—I am happy to wait for you to have a look at it.

Senator Carr—Can we just have a look at it?

Senator TCHEN—Yes, of course. Living in Harmony is about recognising and appreciating what we have in common—those qualities we share with each other—rather than the things that divide us. It emphasises the importance of community harmony for connecting people and building a stronger sense of belonging among family, friends and the local neighbourhood. Living in Harmony projects such as Pitch to Communities by the Waverley Softball Association demonstrate how community involvement through sport can achieve these objectives. I commend and congratulate the Waverley Softball Association; its president, Jacinta Poole; Pitch to Communities project coordinator, Graeme Quince; the many committee members I met but whose names I cannot recall—my apologies for that—and all the association members and participants I did not get to meet, for their contributions and their willingness to be involved in this outstanding community building effort. Do I now have leave to table the pamphlet?

Leave granted.

Senator TCHEN—I thank the Senate. I also commend and thank Aden Ibrahim and all his co-workers in the Somali and Sudanese communities for their efforts to support and help members of their communities to settle and prosper in our productively diverse and harmonious community, making it greater in the process. The story of the Somali and Sudanese communities and other Horn of Africa communities in Australia is very much a story of Australia’s humanitarian offshore settlement program. It is a good story about Australia’s compassionate standing in the world. It is a compassion that is unique in its generosity, its longevity and its discernment. It is a program that deserves determination from all of us to maintain.

This brings me back to the point of my speech last night where I had to break off. Last night my topic was the Australian Arabic Council Media Award 2004. The award was judged by a panel of distinguished experts in journalism and in social sciences. They included the chair of the Department of Social and Behavioural Sciences at the American University of Beirut; the social affairs editor of the Age of Melbourne; an adjunct professor of journalism of the University of Technology, Sydney; and Ms Mary Kostakidis, who is the public face of SBS World News. There were nine short-listed news reports. These ranged in content from reports of the Muslim community in the suburbs of Sydney and elsewhere and its largely successful efforts to integrate into Australian society and oppose terrorism, to analysis of Middle East politics and diplomacy affecting Palestinian self-determination. The panel awarded Ms Andra Jackson for an article on Aladdin Sisalem, then the sole remaining
asylum seeker held in detention on Manus Island. It was a real surprise. I have no issue with Ms Jackson’s ability—I have no issue with the ability of any of the authors—but I fail to see how an article about a failed asylum seeker who could be of any cultural or religious background—

The ACTING DEPUTY PRESIDENT—Senator, that is the extent of your time.

Senator TCHEN—I will leave my punchline for the next night unless the Senate will grant me two minutes.

The ACTING DEPUTY PRESIDENT—No. It will have to be on another evening.

Immigration: Detainees

Senator BARTLETT (Queensland) (7.14 p.m.)—I would like to speak tonight in support of comments made in the lower house by the member for Kooyong, Mr Georgiou, on 9 February. In his contribution to the debate on the address-in-reply to the Governor-General’s speech, he spoke about the need for change in relation to the long-term detention of asylum seekers. This of course is an issue that has been very controversial in the community for a long period of time—indeed, going back to when it was first introduced under the former Labor government. It has become more controversial as the period of time that people have been detained has continued to lengthen.

I note in particular Mr Georgiou’s call for an amnesty or one-off action by the government to free all the asylum seekers who are long-term detainees and to put the many thousands of refugees in the community who are on temporary protection visas onto permanent visas—as was always the case prior to 1999. This would enable them to get on with their lives and contribute more effectively and more quickly to the Australian community. We have had a debate in recent times about the need for more skilled workers in the Australian community, but we are neglecting the many skills that are already present amongst the thousands of refugees who are on temporary visas and who are unable to upgrade and refine their skills because they are not able to access the various courses available without paying full fees. They are not even able to get ready access to improving their English through English language classes that are normally made available to refugees. That is extremely distressing and painful to many of them. It makes their lives much more difficult than they need to be and, frankly, it is counterproductive for the Australian community. We have thousands of refugees who are legitimately in the community being prevented from contributing as effectively and as quickly as possible and are being prevented from getting on with their lives and being part of the Australian economy. That harms us. It is a totally counterproductive policy.

The idea of some form of amnesty or act of grace—a one-off action—to address this long-running suffering of so many people is one that I have spoken of before. The Democrats have put this forward a number of times in the past and we welcome Mr Georgiou speaking of the need for change. It is particularly relevant given how much change there has been in other aspects of this area over recent years. I spoke of the introduction of temporary protection visas in 1999. We are all aware, of course, of the controversy around the 2001 election. The fact is that the number of people who are now arriving as unauthorised noncitizens, as asylum seekers, and attempting to claim protection has dropped dramatically. Whatever one’s view was or is about how the government acted at that time, the fact is that that situation no longer prevails. There is no longer any plausible reason for people to continue to be locked up in detention centres year after year.
It is 6½ years today since Peter Qasim was first put in detention in Australia. He is the longest serving asylum seeker in detention in Australia. He has received some publicity in recent times, and I think Mr Georgiou also spoke of Mr Qasim in his speech. I met with Mr Qasim in Baxter a month or two ago, and with many others who have been in detention for four or five years. That is simply unacceptable. Minister Vanstone, again just last weekend, suggested, ‘Maybe this guy’s not cooperating properly; maybe he’s not giving the full information.’ I find that very difficult to believe, I must say. I cannot see any plausible reason why that would be the case, given he has repeatedly said he is willing to be returned to where he is from or indeed to any other country that will take him. Why does anybody deserve 6½ years imprisonment for not fully cooperating on saying where they have come from? As Mr Georgiou rightly said, there are people convicted of very serious crimes and many of them do not serve that length of time of imprisonment. It is simply, utterly unacceptable.

Let us not forget, of course, the others who have been in Baxter for so long, the 54 people who have been on Nauru now for well over 3½ years, and the more than 40 people who are still on Christmas Island in detention. It should be said that there is no evidence at all that detention has in any way served as a deterrent to people arriving here. As I said, it is true that the numbers arriving have dropped dramatically, but it has certainly had nothing to do with the introduction or the continual tightening of mandatory detention. There were other factors involved subsequently, and certainly some of those may have had an impact. Detention has been around a long time and there is absolutely no evidence that it has been a deterrent.

In that context, I very much recommend that people look at the latest statistics from the United Nations High Commissioner for Refugees, which point out that the dramatic drop in the number of refugees and people seeking asylum is not unique to Australia because of the hardline actions of this government. There has been a widespread drop in refugees globally. The number of asylum seekers just in the last 12 months has dropped by 22 per cent. Since 2001, asylum applications globally have dropped 40 per cent. The figures for New Zealand have dropped reasonably similarly in percentage terms as those for Australia, despite New Zealand not introducing policies even remotely similar to Australia’s. I am not saying that what the government has done in other areas has not had an effect, because I think it has, even though I opposed it. But there were certainly a lot of other factors that have had an effect, not least of which has been the changed circumstance in Afghanistan. Whatever you might think about the government’s policies, its policy on detention certainly has not been one of the factors. There is no evidence at all that it has had any impact. For people to be locked up without charge, without being convicted of any crime, for years and years, goes against what I believe is an absolute fundamental of our democracy.

I would compare that to the decision by the highest court in the UK, towards the end of last year—a decision of eight to one by the law lords—to throw out a law of Tony Blair’s government because it allowed the power of arbitrary detention. One of the judges said of the case:

It calls into question the very existence of an ancient liberty of which this country—the UK—has until now been very proud: freedom from arbitrary arrest and detention.

Another law lord described such a concept of detaining people indefinitely without charge and trial as ‘antithetical to the instincts and
traditions of the people of the United King-
dom’. I am a republican, as most people
would know, so I am certainly not saying we
should do everything the UK does. But, with
a federal government in Australia that speaks
so strongly about the importance of main-
taining our heritage and, in particular, the
importance of maintaining our constitutional
and legal heritage, we should note such a
categorical rejection by the law lords of a
law that allows arbitrary detention in the UK.

Compare that to Australia’s High Court,
which, sadly—four judges to three—allows
indefinite detention of somebody that is not
convicted or even suspected of any crime.
The law the UK judges were discussing is
about detaining non-British people who are
suspected of terrorism, so it is very serious,
but still that was found to be unacceptable to
a fundamental tradition of democracy. Yet,
here in Australia, people who are not even
suspected of the tiniest crime—all they have
done is sought asylum and been unsuccess-
ful—can be locked up not just arbitrarily but
indefinitely.

It is such a serious matter and it is well
and truly time for change on this. I support
Mr Georgiou’s call. I support the calls of a
growing number of other people in the coali-
tion and a growing number of people in the
community. It is time for change on this and
we should not be hung up on the differences
in views of 2001. We should be looking at
the very real, serious human suffering that
exists now and the very serious damage that
is being done to one of the fundamental de-
mocratic freedoms that this country, quite
rightly, has held so dearly and so proudly for
so long.

Sport: Soccer

Senator LIGHTFOOT (Western Austra-
lia) (7.24 p.m.)—I wish to speak tonight on
the Australia v Iraq soccer match to be
played later this month, on 26 March, in
Sydney. Our nation has a rich and diverse
history of sporting achievements. The role
that sport has played in developing our great
country has produced athletes and legends
that have become role models for and heroes
to millions of people. Our love of sport is
manifest and extends to a vast number of
sports, including Aussie Rules, cricket,
rugby, hockey, soccer, athletics and many
more, and we have been fortunate to have
had the luxury of watching our sporting he-
roes on so many occasions. Australia has
produced an inordinate number of world-
renowned sporting identities such as Don
Bradman, Victor Trumper, John Landy,
Dawn Fraser, Betty Cuthbert, Walter Lin-
drum and many more.

Over the last few years, so many of the
images to come out of Iraq have been nega-
tive and outrageous, so the recent an-
nouncement by the chairman of Football
Federation Australia, the eminent Australian
Mr Frank Lowy, that Australia will take on
Iraq on 26 March in Sydney is a fantastic
opportunity to promote something positive
about this newest of democracies. The open-
ing statement in the preamble for the transi-
tional period of the new Iraq government is:

The people of Iraq, striving to reclaim their
freedom, which was usurped by the previous ty-
rannical regime, rejecting violence and coercion
in all their forms, and particularly when used as
instruments of governance, have determined that
they shall hereafter remain a free people governed
under the rule of law.

What greater example is there of a nation
that is looking to move forward and embrace
the future?

The passion for and love of football al-
ready exists in Iraq. It is now a matter of de-
veloping that passion and guiding it in the
right direction—a direction in which it is
being guided by the former coach of the
Western Australian team, Perth Glory, Mr
Bernd Stange. The current world football
rankings have the Iraqis in 44th place, compared to Australia in 58th place, with Guam in the Pacific bringing up the rear in 205th place. Iraq demonstrated their potential when they made the semifinals at the 2004 Athens Olympic Games, defeating Australia in one of their qualifying matches and making the quarterfinals in the Asian Cup. The fact that they made the semis despite the lack of a domestic league and a training venue and with limited preparation makes this feat even grander and their coach more commendable.

This friendly football match to be held in Sydney is a historic event between our countries. This will be the first time in more than 30 years that Australia and Iraq have met at a senior international level. Australia and Iraq have met on two previous occasions, both during the World Cup campaign of 1973. The Sydney match in March of that year saw Australia win 3-1. Then, in July, in a game in Melbourne, Iraq held the Socceroos to a nil-all draw. The Sydney game on 26 March, with both teams at full strength, is going to provide exhilarating entertainment. It is an extraordinary gesture that FIFA is making in assisting with funding to fly the Iraqi team to Australia and in providing the players with generous appearance fees. These fees will be put to excellent use in helping to develop football at all levels in Iraq when the players return.

As well as Australia’s contribution to football in Iraq, a new program has been launched in the United Kingdom, funded by a consortium of the Foreign and Commonwealth Office, the English Football Association and the Iraqi Football Association. The role of this program is to make sure that the game is developed at a grassroots level and to ensure that the game continues to grow in popularity in Iraq. It is magnificent to be able to witness developed nations helping to foster a game that is respected so much and, in doing so, assisting in that country’s transformation.

The popularity of football and the love of the game have been evident from the time of its origin. In 1314 the then Lord Mayor of London believed football caused too much disruption and so outlawed the game. Anyone seen playing football faced imprisonment. King Edward III followed suit in 1331 when he banned the game altogether. Similar laws were introduced in France. The Hundred Years War between England and France, from 1338 to 1453—which is actually 115 years—saw the game outlawed, yet again, because the monarchs considered that the game had no military application. Instead, the English army were instructed to undertake more useful forms of discipline such as archery. For over 500 years, football was prohibited in different forms, yet at no time was the game ever completely suppressed.

So there is another revolution in the new Iraq: it is soccer. Already, a new domestic competition has been launched throughout Iraq, and this year will see the finals of this newly established league played in Baghdad in May this year. The Iraqi football team have had the honour of representing their nation on many occasions, yet they have not been able to do so on home soil for some time. The last occasion on which they played in front of their own people was nearly three years ago. The advantage of playing on your home ground is immense. The recent events that have transformed Iraq into a fledgling democracy will ensure that it will not be long before the soccer team can represent their nation on home soil.

I believe that as Australians living in the safety and security of this country, with the liberties and democratic freedoms into which we are born, we may tend to forget just how fortunate we are and fail to realise how difficult and dangerous it was for the Iraqis prior
to their liberation. The difficulties which the officials and players have faced are almost beyond comprehension. It has been reported that on occasions the team has had to sleep in airports, play in bare feet and with no guernsey, simply because there was no money to pay for these essentials. Yet the honour of representing their troubled nation has meant that the players, notwithstanding the conditions, have prevailed.

The coach, Adnan Hamd Majeed, who won the Asian Football Confederation’s Coach of the Year award in 2004, recently resigned citing security problems. Former Perth Glory coach Bernd Stange from Perth, Western Australia, also resigned from the coaching position after having a significant positive impact on the team. Bernd Stange was questioned on the lifestyle in Iraq in an interview with FIFA and asked why he had left. Part of his response was: ‘My driver Siad Tarek, a former Asian karate champion, was shot a few minutes after dropping me off at the Sheraton Hotel. A bullet went through his hand and he also received a head wound.’

It is evident that there is a slight difference in lifestyle between the two countries in the punitive and sometimes fatal punishment that follows defeat. As Iraq moves forward towards full democracy, in peace, quality professionals will be enticed to coach and represent this talented and accomplished football team. Obviously, Australia has played a large role in helping to liberate a nation that has been dominated by an abhorrent dictator and where its citizens have lived in fear of their lives for over 50 years. Recently, we have seen democracy restored to a one-time proud nation that encompasses the very cradle of civilisation. I have witnessed this pride slowly bring a sense of change and normalcy to its people.

The upcoming friendly game between Australia and Iraq further cements the bond that has been forged between two nations that have much in common. If Australia can encourage a pastime such as football to develop and grow, we should be prepared to assist. The Constitution that governs Australia is based on democracy and the fundamental rights of its citizens to live in freedom and safety. Australia is one of the five oldest continuous democracies in the world. Although our relative democracies have developed in very different circumstances, the development of a constitution has the ability to empower a nation and its people—witness, although not strictly a constitution, the Magna Carta. It embodies all that is important about a country—its beliefs, traditions, freedoms and a base for law that goes a long way to shaping a nation’s future.

The recently elected National Assembly of Iraq is in the process of drafting a permanent constitution which is due for completion on 15 August 2005. I take this opportunity to implore the National Assembly of Iraq to develop a constitution that is relevant to all Iraqis and that will provide direction to a country that has grasped the opportunity to embrace democracy. With exceptional leaders of the ilk of General Jalal Talabani and Prime Minister Allawi, I have no doubt as to its success.

The symbolism of the changes show that the game is strong, that it will no longer be held back and that those who wish to should not be prevented from playing. Yet at the same time the material needs of the players must be addressed. The majority of the domestic clubs have little or no equipment or resources and the ground on which they play and train is in poor condition. The funding is minimal or nonexistent. This is slowly beginning to change with the development of the headquarters of the Iraq Football Association and improvements to their major grounds.
It was recently announced that the local Nahrain TV has signed an agreement to televise all the matches of the Iraqi football league, which will increase funding through the greater promotion of advertising. The game of soccer is the most popular in the world and is played by millions of people in over 150 countries. Our great nation has been blessed with many sporting achievements and memories. We have produced athletes that generations of people have admired and respected. The potential for Iraqi football is vast, and I look forward to watching their progress in anticipation of great outcomes. I congratulate Football Federation Australia and the Iraq Football Association on their initiatives. The upcoming match will pit two great competitors against each other. I am sure that this spectacle will be the first of many more friendly competition matches to come. May God be kind to the new Iraq. Do not forget 26 March, Sydney—be there.

(Time expired)

Senate adjourned at 7.35 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:

- Environment Protection and Biodiversity Conservation Act—Instruments amending list of exempt native specimens under section 303DB, dated—

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]:

- Aboriginal and Torres Strait Islander Commission Act—Aboriginal and Torres Strait Islander Commission (Meetings) Directions 2005 [F2005L00577]*.
- Customs Act—Tariff Concession Orders—
  - 0411084 [F2005L00561]*.
  - 0413762 [F2005L00559]*.
  - 0413764 [F2005L00560]*.
- Financial Management and Accountability Act—Net Appropriation Agreements for the—
  - Australian Research Council [F2005L00541]*.
  - Inspector-General of Taxation [F2005L00569]*.
- Fisheries Management Act—Bass Strait Central Zone Scallop Fishery Management Plan—
  - Determination No. BSCZSFD 01—Total Allowable Catch [F2005L00563]*.
  - Direction No. BSCZSF 01—Area Closures [F2005L00565]*.
National Health Act—Determinations
Nos—
PSO 1/2005 [F2005L00591]*.
PSO 3/2005 [F2005L00595]*.

Product Rulings—
Addenda—PR 2004/99, PR 2004/114,

Sydney Airport Curfew Act—Dispensation
No. 2/05 [3 dispensations].

Taxation Determination—Notice of With-

Taxation Rulings—
Addendum—TR 96/5.

Notices of Withdrawal—
TR 92/19.

Textile, Clothing and Footwear Strategic
Investment Program Act—Textile, Cloth-
ing and Footwear Strategic Investment
Program Scheme Amendment 2005 (No. 1)
[F2005L00416]*.

Trade Practices Act—Consumer Protection
Notice No. 1 of 2005—Amendment to
Consumer Product Safety Standard: Toys
for Children up to and including 36 months
of age [F2005L00558]*.

* Explanatory statement tabled with legisla-
tive instrument.

Indexed Lists of Files
The following document was tabled pursu-
ant to the order of the Senate of 30 May
1996, as amended:

Indexed lists of departmental and agency
files for the period 1 July to 31 December
2004—Statement of compliance—Finance
and Administration portfolio agencies.
QUESTIONs ON NOTICE

The following answers to questions were circulated:

Environment: Recherche Bay

(Question No. 330)

Senator Brown asked the Minister for the Environment and Heritage, upon notice, on 3 February 2005:

With reference to the heritage listing and protection of the north-east peninsula of Recherche Bay, Tasmania, and the Minister’s media release of 28 January 2005:

(1) On what date or dates and from which agencies did the Minister receive advice that Recherche Bay should not be given emergency listing on the National Heritage List.

(2) What investigation was undertaken and what information was used as the basis for the advice.

(3) Can the Minister provide a formal statement of the reasons for refusing an emergency listing.

(4) Why does the Minister refer to receiving an assessment of Recherche Bay from the Australian Heritage Council ‘in the next few months’ when the 12 month statutory assessment period expires on 2 March 2005.

Senator Ian Campbell—The answer to the honourable senator’s question is as follows:

(1) The evidence or other material on which my findings were based was provided by my department.

(2) The statement of reasons for my decision, which is publicly available on my department’s internet site, provides details of the information I used in making my decision.

(3) See answer to question (2).

(4) I can confirm that the report is due on 2 March 2005. The Environment Protection and Biodiversity Conservation Act 1999 does contain provisions for me to extend the period within which the Australian Heritage Council can complete its assessment if more time is needed to ensure a thorough assessment.