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SITTING DAYS—2005

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>February</td>
<td>8, 9, 10</td>
</tr>
<tr>
<td>March</td>
<td>7, 8, 9, 10, 14, 15, 16, 17</td>
</tr>
<tr>
<td>May</td>
<td>10, 11, 12</td>
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<tr>
<td>June</td>
<td>14, 15, 16, 20, 21, 22, 23</td>
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<tr>
<td>August</td>
<td>9, 10, 11, 15, 16, 17, 18</td>
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<tr>
<td>September</td>
<td>5, 6, 7, 8, 12, 13, 14, 15</td>
</tr>
<tr>
<td>October</td>
<td>4, 5, 6, 10, 11, 12, 13</td>
</tr>
<tr>
<td>November</td>
<td>7, 8, 9, 10, 28, 29, 30</td>
</tr>
<tr>
<td>December</td>
<td>1, 5, 6, 7, 8</td>
</tr>
</tbody>
</table>

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

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- **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
<table>
<thead>
<tr>
<th>Senator</th>
<th>State or Territory</th>
<th>Term expires</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abetz, Hon. Eric</td>
<td>Tas</td>
<td>30.6.2005</td>
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<td>Allison, Lynette Fay</td>
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<td>Campbell, Hon. Ian Gordon</td>
<td>WA</td>
<td>30.6.2005</td>
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<td>Crossin, Patricia Margaret (1)</td>
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<td>Eggleston, Alan</td>
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<td>Greig, Brian Andrew</td>
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<td>Harradine, Brian</td>
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<td>Ind</td>
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<td>Knowles, Susan Christine</td>
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<td>Lundy, Kate Alexandra (3)</td>
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<td>30.6.2008</td>
<td>ALP</td>
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<td>McLucas, Jan Elizabeth</td>
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<td>Marshall, Gavin Mark</td>
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<td>Mason, Brett John</td>
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<td>LP</td>
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<td>Murphy, Shayne Michael</td>
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<td>Murray, Andrew James Marshall</td>
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<td>AD</td>
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<td>Nettle, Kerry Michelle</td>
<td>NSW</td>
<td>30.6.2008</td>
<td>AG</td>
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<td>ALP</td>
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<td>Patterson, Hon. Kay Christine Lesley</td>
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<td>30.6.2008</td>
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<td>Payne, Marise Ann</td>
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<td>ALP</td>
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<td>Santoro, Santo (6)</td>
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<td>CLP</td>
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<td>30.6.2008</td>
<td>ALP</td>
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<td>Stott Despoja, Natasha Jessica</td>
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<td>30.6.2008</td>
<td>AD</td>
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<td>Tchen, Tsebin</td>
<td>VIC</td>
<td>30.6.2005</td>
<td>LP</td>
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<td>Tierney, John William</td>
<td>NSW</td>
<td>30.6.2005</td>
<td>LP</td>
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<td>Troeth, Hon. Judith Mary</td>
<td>VIC</td>
<td>30.6.2005</td>
<td>LP</td>
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<td>Vanstone, Hon. Amanda Eloise</td>
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<td>30.6.2005</td>
<td>LP</td>
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<td>Watson, John Odin Wentworth</td>
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<td>30.6.2008</td>
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<td>Webber, Ruth Stephanie</td>
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<td>ALP</td>
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<td>Wong, Penelope Ying Yen</td>
<td>SA</td>
<td>30.6.2008</td>
<td>ALP</td>
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</tbody>
</table>

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

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

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

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

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

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

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

Shadow Minister for Immigration
Laurence Donald Thomas Ferguson MP

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

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

Shadow Attorney-General
Nicola Louise Roxon MP

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

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

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

Shadow Minister for Sport and Recreation
Alan Peter Griffin MP

Shadow Minister for Veterans’ Affairs
Senator Thomas Mark Bishop

Shadow Minister for Small Business
Tony Burke MP

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

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

Shadow Minister for Pacific Islands
Robert Charles Grant Sercombe MP

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

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

Shadow Parliamentary Secretary for Education
Kirsten Fiona Livermore MP

Shadow Parliamentary Secretary for Environment and Heritage
Jennie George MP

Shadow Parliamentary Secretary for Infrastructure
Bernard Fernando Ripoll MP

Shadow Parliamentary Secretary for Health
Ann Kathleen Corcoran MP

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

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

Shadow Parliamentary Secretary for Northern Australia and Indigenous Affairs
The Hon. Warren Edward Snowdon MP
CONTENTS—continued

Corporations and Financial Services Committee: Joint—Report: Government Response .......................................................... 119
Documents—
  Auditor-General’s Reports—Report Nos 37 and 38 of 2004-05 .................................................. 123
  Criminal Code Amendment (Trafficking in Persons Offences) Bill 2004 [2005]—
    Report of Senate Legal and Constitutional Legislation Committee .................................. 123
Committees—
  Public Accounts and Audit Committee: Joint—Report .................................................. 125
  Membership .................................................................................................................. 127
Appropriation (Parliamentary Departments) Bill (No. 2) 2004-2005,
Appropriation Bill (No. 3) 2004-2005 and
Appropriation Bill (No. 4) 2004-2005—
  First Reading .................................................................................................................. 127
  Second Reading ................................................................................................................. 127
Trade Practices Legislation Amendment Bill (No. 1) 2005 and
Australian Institute of Marine Science Amendment Bill 2005—
  First Reading .................................................................................................................. 130
  Second Reading ................................................................................................................. 130
Appropriation (Tsunami Financial Assistance) Bill 2004-2005 and
Appropriation (Tsunami Financial Assistance and Australia-Indonesia Partnership)
Bill 2004-2005—
  First Reading .................................................................................................................. 134
  Second Reading ................................................................................................................. 135
Bills Returned from the House of Representatives ................................................................. 138
Economy .......................................................................................................................... 138
Documents—
  Commonwealth-State Housing Agreement ........................................................................ 159
  Great Barrier Reef Marine Park Authority ........................................................................ 160
  Wet Tropics Management Authority ............................................................................. 162
  Consideration ................................................................................................................... 163
Committees—
  Privileges Committee—Report ..................................................................................... 164
  Legal and Constitutional References Committee—Report ........................................... 164
Documents—
  Consideration .................................................................................................................. 167
Adjournment—
  Information Technology ................................................................................................. 167
  Multiple Sclerosis ............................................................................................................ 167
  Festivale 2005 ................................................................................................................ 169
  Flavours of Tasmania ....................................................................................................... 169
  Immigration: Visas ........................................................................................................... 171
  Queensland: Services ...................................................................................................... 173
Documents—
  Tabling ........................................................................................................................... 176
  Indexed Lists of Files ....................................................................................................... 176
Questions on Notice
  Family and Community Services: Advertising Campaign—(Question No. 116) ........... 177
  Health and Ageing: Advertising Campaign—(Question No. 119) ................................. 178
CONTENTS—continued

Immigration: Christmas Island Reception and Processing Centre—(Question No. 268) .......................................................... 179
Quarantine: Salmon—(Question No. 304) ......................................................................................................................... 182
Pan Pharmaceuticals Ltd—(Question No. 313) ..................................................................................................................... 184
Thursday, 10 March 2005

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

NOTICES

Presentation

Senator Conroy to move on the next day of sitting:

That the matter of the performance of the Australian telecommunications regulatory regime be referred to the Environment, Communications, Information Technology and the Arts References Committee for inquiry and report by 23 June 2005, with the following terms of reference:

1) Whether the current telecommunications regulatory regime promotes competition, encourages investment in the sector and protects consumers to the fullest extent practicable, with particular reference to:
   
   a) whether Part XIB of the Trade Practices Act 1974 deals effectively with instances of the abuse of market power by participants in the Australian telecommunications sector, and, if not, the implications of any inadequacy for participants, consumers and the competitive process;
   
   b) whether Part XIC of the Trade Practices Act 1974 allows access providers to receive a sufficient return on investment and access seekers to obtain commercially viable access to declared services in practice, and whether there are any flaws in the operation of this regime;
   
   c) whether there are any structural issues in the Australian telecommunications sector inhibiting the effectiveness of the current regulatory regime;
   
   d) whether consumer protection safeguards in the current regime provide effective and comprehensive protection for users of services;
   
   e) whether regulators of the Australian telecommunications sector are currently provided with the powers and resources required in order to perform their role in the regulatory regime;
   
   f) the impact that the potential privatisation of Telstra would have on the effectiveness of the current regulatory regime;
   
   g) whether the Universal Service Obligation (USO) is effectively ensuring that all Australians have access to reasonable telecommunications services and, in particular, whether the USO needs to be amended in order to ensure that all Australians receive access to adequate telecommunications services reflective of changes in technology requirements;
   
   h) whether the current regulatory environment provides participants with adequate certainty to promote investment, most particularly in infrastructure such as optical fibre cable networks;
   
   i) whether the current regulatory regime promotes the emergence of innovative technologies;
   
   j) whether it is possible to achieve the objectives of the current regulatory regime in a way that does not require the scale and scope of regulation currently present in the sector; and
   
   k) whether there are any other changes that could be made to the current regulatory regime in order to better promote competition, encourage investment or protect consumers.

2) That the committee make recommendations for legislative amendments to rectify any weaknesses in the current regulatory regime identified by the committee’s inquiry.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.31 a.m.)—I give notice that, on the next day of sitting, I shall move:

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

Appropriation (Tsunami Financial Assistance) Bill 2004-2005

I also table a statement of reasons justifying the need for these bills to be considered during these sittings and seek leave to have the statement incorporated in Hansard.

Leave granted.

The statement read as follows—

APPROPRIATION (TSUNAMI FINANCIAL ASSISTANCE) BILL 2004-2005
APPROPRIATION (TSUNAMI FINANCIAL ASSISTANCE AND AUSTRALIA-INDONESIA PARTNERSHIP) BILL 2004-2005

Purpose of the bills
These supplementary appropriation bills request legislative authority for additional expenditure in 2004-2005. Passage of the bills in the 2005 Autumn Sittings will allow funds to be made available to agencies, thereby enabling timely implementation of the government’s response to the South Asian Tsunami.

Reasons for Urgency
Unless new expenditure authority is in place in a timely manner, it will not be possible to implement the government’s response to the South Asian Tsunami.

Withdrawal
Senator LEES (South Australia) (9.31 a.m.)—I withdraw business of the Senate notice of motion No. 1, proposing the reference of a bill to a committee.

Senator BARTLETT (Queensland) (9.31 a.m.)—At the request of Senator Cherry, I withdraw business of the Senate notice of motion No. 2.

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

That general business order of the day No. 30 (Parliamentary Service Amendment Bill 2005) be considered from 12.45 pm till not later than 2 pm today.

Question agreed to.

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

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

(a) general business notice of motion No. 93 standing in the name of the Senator Ludwig relating to Australia’s economy; and

(b) consideration of government documents.

Question agreed to.

NOTICES
Postponement
A general business notice was postponed as follows:

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 14 March 2005.

BUSINESS
Rearrangement
Senator FERRIS (South Australia) (9.33 a.m.)—by leave—At the request of the Chair of the Legal and Constitutional Legislation Committee, Senator Payne, I move:

That business of the Senate order of the day no. 2, relating to the presentation of the report of the committee on the Criminal Code Amendment (Trafficking in Persons Offences) Bill 2004 [2005], be postponed till a later hour.

Question agreed to.
TELSTRA: ANTICOMPETITIVE BEHAVIOUR

Senator Ludwig (Queensland) (9.35 a.m.)—At the request of Senator Conroy, I move:

That the Senate—

(a) notes that on 21 February 2005 the Australian Competition and Consumer Commission (ACCC) reached an agreement with Telstra to deal with issues involved in the competition notice issued to Telstra on 19 March 2004; and

(b) resolves that there by laid on the table, no later than 3.30 pm on 10 May 2005, a report by the ACCC containing:

(i) recommendations by the ACCC to:
   (A) prevent a similar situation from recurring, and
   (B) improve the ACCC’s ability to handle anti-competitive behaviour engaged in by Telstra,

(ii) specific details of the pricing conduct for which Telstra will be rebating its wholesale customers through the settlement including the period of time during which this conduct was undertaken,

(iii) an explanation of how the settlement will act as a deterrent to Telstra engaging in anti-competitive conduct in the future both in the broadband market and in other telecommunications markets,

(iv) an explanation of how the structure of the retail broadband market has been affected by Telstra’s conduct during the period of the competition notice, including the impact of Telstra’s conduct on retail market shares of broadband internet service providers, and

(v) an explanation of how the settlement will rectify any detrimental impacts on the structure of the retail broadband market that have resulted from Telstra’s conduct.

Question agreed to.

NUCLEAR NON-PROLIFERATION TREATY REVIEW CONFERENCE

Senator Allison (Victoria—Leader of the Australian Democrats) (9.35 a.m.)—I move:

That the Senate—

(a) notes the Nuclear Non-proliferation Treaty (NPT) Review conference commencing on 1 May 2005 in New York and the vital importance of the NPT as an instrument of
both nuclear disarmament and non-proliferation;
(b) expresses its deep concern over:
(i) the proliferation of weapons of mass destruction, and
(ii) the danger to humanity posed by the possible use of nuclear weapons;
(c) acknowledges the significant steps taken towards nuclear disarmament since the previous NPT Review conference including the signing of the Strategic Offensive Reductions Treaty between Russia and the United States of America in 2002 and calls for the full implementation of all relevant articles of the treaty including Articles I and II on non-proliferation and Article VI on the achievement of general and complete disarmament;
(d) affirms the vital importance of the unequivocal undertaking made at the 2002 NPT Review conference by the nuclear weapons states, to accomplish the elimination of nuclear weapons arsenals, and of the 13 steps agreed to at that meeting;
(e) urges the Government to:
(i) pursue a balanced and integrated approach on both disarmament and non-proliferation at the NTP Review conference,
(ii) call on the nuclear weapons states and nuclear capable states not to develop new types of nuclear weapons, in accordance with the commitment to diminish the role of nuclear weapons in security policies, and
(iii) call for concrete agreed steps by nuclear weapons states and nuclear capable states to lower the operating status of nuclear weapons systems in their possession, as called for by Australia’s L23 Path to a Nuclear Free World;
(f) welcomes the appeal, signed by 30 Nobel prize-winners, calling on the governments of the United States of America, Russia, China, France, the United Kingdom, India, Pakistan, Israel and North Korea, to support and implement steps to lower the op-erational status of their nuclear weapon systems in order to reduce the risk of nuclear catastrophe;
(g) notes and strongly affirms continued efforts by the Government to secure universal adherence to, and ratification of, the Comprehensive Nuclear Test Ban Treaty (CTBT) and urges the Government to press for the early entry into force of the CTBT; and
(h) requests that this resolution be conveyed to the foreign ministries and United Nations (UN) missions of all participants in the NPT Review conference, the UN Secretary-General, the Director-General of the International Atomic Energy Agency and the Chair of the 2005 NPT Review conference, as well as the governments of India, Pakistan and Israel.

Question agreed to.

COLOMBIA: HUMAN RIGHTS

Senator BARTLETT (Queensland) (9.36 a.m.)—by leave—At the request of Senator Stott Despoja, I move the motion as amended:

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) 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.

Question agreed to.

BUDGET

Consideration by Legislation Committees

Additional Information

Senator FERRIS (South Australia) (9.37 a.m.)—On behalf of the chair of the Legal and Constitutional Legislation Committee, I present additional information received by the committee relating to hearings on the 2004-05 budget estimates.

COMMITTEES

Legal and Constitutional References

Senator BROWN (Tasmania) (9.37 a.m.)—I move:

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.

I want to underline how strongly the Greens feel about this motion. The motion we are dealing with is about the Greens’ wish to refer to the Legal and Constitutional References Committee the horrific spectre of torture being used by democratic Western countries, like the United States, Britain and now Australia. The motion is to have a Senate inquiry into Australian knowledge of and involvement in the US Bush administration’s policy of rendition and, consequent upon that, the use of torture. This policy of rendition is, in effect, contracting out torture to second or third countries. A fleet of CIA planes has been used to ferry people who have been effectively kidnapped in second countries, including nations like our own—Sweden for one—to third nations where torture is known to take place and where the object of the transfer of prisoners is to have them tortured.

The Bush White House has made a deliberate decision that torture is to be used to extract information in the age of terrorism. This is contrary to the whole ethos of the US democratic system and indeed our parallel democratic system in Australia, which has abhorred torture and has worked assiduously to bring into place international conventions against the use of torture. What we have here is an insidious backdoor approval of torture by the US President and the US administration without there being laws consequent upon full debate by the US congress. The
question I put to this parliament and the Senate is: are we going to allow ourselves to become part of that pattern of behaviour, which, besides undermining the ethos of this nation, undermines the democratic process?

Attorney-General Ruddock has said that Australia will not condone torture in any circumstance, yet there is prima facie evidence from Mr Habib, an Australian citizen who was held and tortured in Egypt, that the Australian authorities not only knew that he was in Egypt and being tortured in Egypt but supplied information to the torturers in the form of a phone list from his mobile phone, which ostensibly came from a search of his house under warrant in his absence. I do not know the rights or wrongs of Mr Habib’s situation. That is not what is germane here. Australian citizens without exception are innocent until proven guilty, and Australian citizens—and indeed anybody under the system of Australian law and order—must be protected from torture without exception.

I find it extraordinary, to say the least, that we have a situation where the government does not support this move for the Senate to investigate this critical matter. I am told that the opposition will not support it either. They can argue for themselves, but let me say this: I have not moved for an inquiry that is more important than this one. We are not a vassal of any other country. We are an independent nation, proud of our democracy and our freedoms and the lead this country has taken in extending to the rest of the world, as far as we can, the democratic principles that everybody is equal under the law and nobody shall be subject to torture. What we are seeing at the moment is a reversion of that, a rollback, without proper debate in the parliaments involved. That is a derogation of democracy itself.

I do not know what the argument of the opposition or the government can be in saying, ‘We will not allow this to be investigated.’ We know the facts. Neither the government nor the opposition will dispute the reality that prisoners are being, at the behest of the CIA, taken from second countries to third countries where torture is not only permitted but part of the police state apparatus—countries like Egypt and Uzbekistan—countries where horrific torture, unconscionable within our own borders and indeed within the United States, is practiced. Here we have governments subverting the rule of their own countries, breaking their own law, breaking their own ethos if they become involved in such practices, in such odious throwbacks to barbaric former times.

The Howard government has a case to answer here, and we will not get answers unless we inquire. I believe that the Senate has a duty to make that inquiry. I cannot believe that the Labor Party is welshing on its duty to ensure that this inquiry takes place. One must assume that there is a misguided belief that we must not upset the United States of America. I have a belief that there is a difference between the Bush administration and the history and traditions of the United States of America. I believe it is absolutely essential—not just proper but essential—that we separate from the Bush administration when it not only condones but delivers people to torture and expends taxpayers’ money in taking part in the process of torturing individuals to extract information.

If it must be that torture is now to become part of the processes of the United States and ipso facto at least part of the debate of where we are going to in this great country of Australia, let us debate it. As the Sydney Morning Herald editorial said, let us decide where the limits are to be set now that the boundaries are moving. Let us not be cowardly about this and say, ‘Let’s not talk about it; let’s just keep it going covertly,’ as if it is not happening—which has always been part of
the extraordinarily immoral power play of
the torturer. If torture is going to be enter-
tained and this CIA rendition approved of by
President Bush himself is going to be ticked
off by the Howard government, let this par-
liament debate it. Let every member of par-
liament say how far they will go in permit-
ting torture, and under what circumstances
and on which innocent people they will al-
low it to be used.

Let us have a debate about the merits of
the use of torture in a world in which terror-
ism is a scourge, because there are compel-
ling arguments that it is counterproductive.
For example, no court will convict somebody
on evidence that has been extracted through
torture. For example, information extracted
under torture is notoriously unreliable. For
example, with people who are arrested and
tortured in secret, the secrecy itself can be
counterproductive—as has been surmised in
the case of S11, where an operative was ar-
rested and kept covertly; but, had that arrest
been made public, the people involved in
that horrific act of terrorism might have
called it off.

Let these matters be debated in democratic
fora. Let us not leave it to ASIO or, indeed,
the bureaucracy anywhere or ministers in
consultation with their US, British or other
counterparts to determine these matters. If
we are to be a functioning democracy, it
must be debated in our parliament—and, if it
is going to be debated in our parliament, it
has to be debated on all the information that
is available. How do we get that? We get that
through an inquiry. There is and has been a
failure of courage here by both the govern-
ment and the opposition. There is something
to hide here. A vote against this motion is a
vote for hiding information—for secrecy, for
denying public exposure. It is a vote which
injuries democracy itself.

If this government is to entertain a role in
the US government’s policy of rendition, or
if this opposition is to say, ‘We do not want
to trespass into the odious practice of rendi-
tion, which has been ticked off by the Bush
administration,’ let them get up and say so.
But let us not hide from discovering the
facts, because that is cowardice, which has
no place in a proper democratic forum like
this.

I believe that this parliament is on trial
here and the big parties have to think again
about this. I ask the baseline question: what
harm can be done by inquiring into the fact
that an Australian citizen, Mr Habib, was
arrested in Pakistan; that the Australian au-
thorities knew about it and met him there;
that he was transferred to Egypt and tortured;
that it is his evidence that information used
in that torture process in the torture chamber
in Egypt came from his home in Sydney; and
that we know the USA, via the CIA, trans-
fers prisoners to places of torture in Egypt,
Uzbekistan and elsewhere?

Are the government and opposition too
weak to have this matter brought into the
public arena? I put this question: if there has
been no wrong here, no complicity by Aus-
tralia with this policy of rendition, why
should we not have this inquiry? Why should
the government oppose it? Why should the
opposition oppose it? There is a stench in the
air. There is always a stench in the air when
when torture is involved, and it will not be cleared
by the government or opposition saying, ‘We
will not have this matter canvassed by our
parliament.’ It is an extraordinary matter that
this motion will not succeed.

The Greens will not accede to the matter
being over and done with today. We will do
all we can to get to the facts of this matter.
What are we defending here? Let me put this
very clearly: we are defending Australian
democracy and Australia’s time-honoured
abhorrance of torture. We will not have a bar of it. The price of keeping the scourge of torture from our democratic forms, our thinking and our ethos in this country is vigilance against it where it occurs. This motion is for such vigilance. I can scarcely believe that it is not going to succeed, but let the opposition and government defend their point of view.

Senator LUDWIG (Queensland) (9.54 a.m.)—Let me say this at the outset: Labor have listened to Senator Brown in respect of this matter, and we agree in terms of the substantive matters that he has put forward. We do not agree with torture. We have been at the forefront of ensuring that UN conventions against torture have been adhered to. We have supported in this parliament those issues which go to ensuring that the scourge of torture is removed from this world, and we have pressed this government on international matters—

Senator Brown—Well, support this.

Senator LUDWIG—You have had your turn, Senator Brown. We have pressed this government to ensure they support United Nations conventions across the board—not only those on torture but those on a whole raft of international humanitarian initiatives—to ensure that these sorts of things are not done or dealt with. However, we do not have before us a motion to debate the substantive issue, as you might think. What we have is a motion that is going to send a reference off to the Senate Legal and Constitutional References Committee. That is what we have before us, Senator Brown, if you want to debate the substantive matters in relation to torture or rendition, you have—and you know very well that you have—the ability to be able to do that in a range of—

Senator Brown interjecting—

Senator LUDWIG—You have had your say, Senator Brown; it is my turn now. You have the ability to raise these matters in the parliament in a number of quarters and in a number of ways. In fact, I had the ability to sit at estimates and ask the Australian Federal Police and ASIO a range of questions dealing with a raft of issues that go to this area and others that we have an interest in. I know that you were not there, Senator Brown. You might have been on more important work—I am not sure. However, estimates is one opportunity that you have to progress these matters, to question the department and to question the bureaucrats in relation to this matter.

I know that Senator Nettle did take up that opportunity. Senator Nettle, representing the Greens, did take the opportunity to participate in estimates, and some of those matters have now been put forward. As I understand it, Senator Nettle asked questions, which were put on notice, that went to what the government’s policy and practice on rendition is, whether the government has ever assisted the US government with rending persons from Australia to another country, whether the government has ever assisted the US government with rending persons from a country other than Australia to another country, whether the practice of rendition is legal in Australia and so on. There has been an opportunity for the Greens to progress this matter in estimates. That is a right we all have, and I do not cavil at that. What we have not heard is a response from the department about that because, as you know, Senator Brown, with the estimates process they have until 9 April to provide answers on notice in respect of those issues. So, to date, unless Senator Nettle can inform me otherwise, we have not heard a response on this matter, and therefore we do not know whether the answers to these questions will inform us about ways we can progress this matter.

We do know that when you want to give a matter to a references committee you ask, ‘Is
this the appropriate forum for this matter to be pursued? As Manager of Opposition Business in the Senate, what I do in terms of references is look at the detail. Senator Brown, you know the process in this place. If people want references pursued in this place there is the Selection of Bills Committee and there are forums where you can discuss with various leaders whether a reference is the type of reference that can be sent to a legal and constitutional committee. We know that the usual processes regarding that sort of reference take place before we come into this chamber and move a motion which sends it off to a references committee such as legal and constitutional. You have to ask yourself a couple of questions, Senator Brown. Is it the case that you want the forum here to ventilate the issue, or do you want a substantive look at the issue? If you send it to the references committee, one of the problems you will be confronted with is whether it will actually determine or be able to get to the facts that you have alluded to today, or whether it would be more appropriate to send it to a different committee, such as the ASIO committee.

Senator Brown—Do you know?

Senator LUDWIG—I do not know the answer to that because you obviously have not canvassed it with anyone. But with the Legal and Constitutional References Committee what you would end up with, Senator Brown, is perhaps calling the Department of Foreign Affairs and Trade, the Australian Federal Police or the Australian Security Intelligence Organisation. At least from an estimates point of view, because of the nature of the classified subject matter you then have to ask: ‘Is the inquiry process in a Senate references committee an appropriate vehicle to progress the matter? Would any relevant official be in a position to provide a cogent argument or evidence to outline what you say could potentially be going on?’ I am not convinced that that would progress the debate any further. The difficulty that Labor and I have is that we cannot see clearly that you would be able to progress the issue past the point of making the statements that you have made today, other than calling one witness perhaps to give his version of events, which would then be uncontested in that sense. A Senate references committee is not a forum in which to try to come to a conclusion. What we can do is throw some light into the corner and ventilate the issues; debate does not occur there. As you know, Senator Brown, you can use a number of mechanisms to initiate a debate on this matter in the Senate. On numerous occasions you have pursued those options, I am sure that you know how to bring that forward. In this instance it is not an appropriate mechanism, in Labor’s view, to put this issue to the Legal and Constitutional References Committee. I do not think that that would provide the result that you are looking for. Those are the substantive reasons why Labor will not be supporting the motion. We do not think that the issues that surround it will in any event be well ventilated in that process.

Senator BARTLETT (Queensland) (10.02 a.m.)—by leave—I move:

At the end of paragraph (a), insert “, after September 2001”.

At the end of paragraph (b), insert “, after September 2001”.

Senators may not feel that it is necessary, but the amendment specifies that the motion relates to any potential activity or Australian involvement after September 2001. That seems as good a cut-off date as any, purely because allegations could potentially be made about Australian involvement in various practices overseas stretching back to the Boer War. It is simply to clarify that the focus is on recent developments.
It is important to clarify the substantive motion before the chamber. We have a motion to refer a matter to a Senate committee to examine and report back to the Senate by the end of June. The matter that the Senate committee is being asked to examine is Australian involvement in or knowledge of the practice of sending people for interrogation to countries which allow torture, such as Egypt, and any potential Australian involvement in torture in overseas countries. I should say at the outset that the Democrats will support the motion. We think it is a fundamentally important matter, and certainly it is crucial to ensure that as much light as possible is shed on it.

It is not my job to defend the ALP—I hope that they remember that I am about to do it—but I understand the views that Senate Ludwig has raised. Whether or not this is the best process to get the maximum result on these matters of very serious public concern is something on which there can be different valid opinions. Whilst Senate committees are very powerful and very important, it should not be suggested that they are all-powerful and can get any information we would like. As we all know—Senator Ludwig and I probably know this more than many others because of some of the migration committees we have been involved in—a lot of the time you cannot get the information you want, even from government departments, let alone when it involves issues that undoubtedly would be portrayed as involving national security. That is a big barrier to getting adequate information on some important matters.

It may well be that committees like the ASIO, ASIS and DSD committee may be more effective in that regard. Having said that, there are counterarguments. Firstly, there is no crossbench representation on that committee, which I believe should be altered. Secondly, a lot of the time you have that catch-22—you can get some of this confidential information but only if you do not tell anybody about it—which is not of much use if what you are told is seriously concerning. You actually become complicit in, and in some respects an accomplice to, knowledge of a practice that you do not support but that you can do nothing about. They are difficult questions.

It is not helpful—if I can provide some gratuitous advice to Senator Brown—to imply that anybody who does not agree with a particular process is therefore soft on the issue, does not care about the issue and is welshing on it. I mention as an aside that one of my staff who has a Welsh background objects to the word ‘welshing’. I do not know whether that is where it comes from but they always make the point to me, so I thought I would pass it on.

As people would know—and I would hope that the media that run with stories like this one would also know—a lot of work has already been done in estimates committees, including by Labor. It is easier for them to do it because they have got more people, but nonetheless they have done a lot of work. Senator Nettle has also done some work in asking questions about this. Some information has been provided, more questions have been asked and more information will come forward, I trust. I suspect it will not answer the questions fully, particularly the answers from this government, because the other shortcoming that we face in the Senate is—and we have seen this repeatedly—that even when answers are forthcoming they tend to be incomplete, misleading and, some of the time, simply wrong. We certainly saw that with, for example, the ‘children overboard’ committee and in answers about this whole area of activity to do with what is happening in Iraq.
We have seen that time after time—the weasel words and the deliberate distortion of the facts by the careful choosing of words to misrepresent things. It has happened time and time again, and that makes life more difficult for us as well. That is why it often takes a long period of time—not just overnight—to ask the questions, test the information, go back and test it against something else and come back at the next hearing and pursue it further.

Whether or not a references committee with a reporting date in three months time would be able to do that is open for debate. I think those issues are relevant. I would also point to the example of Senator Allison, who, earlier this week, was successful in establishing a select committee on mental health. That is something that took a few weeks and a fair bit of negotiation with a range of senators in this chamber. At the end of it, we were able to get support not just from the opposition but from the government for an inquiry into what is a very important issue. This issue is equally important, I believe, although very different.

Here is a bit more gratuitous advice: if you genuinely want to get support for an inquiry, it helps to negotiate with people in advance rather than to create a situation where the first time they hear about it is when they receive calls from the media saying, ‘Do you support the motion for an inquiry?’ which is then moved the next day. Apparently, there were erroneous reports on the ABC about the ALP’s position, given that they are not supporting it. I gather, and they were reported as saying they would. Those sorts of things do not help in trying to get constructive cooperation, and neither does insinuating that people who do not support the specific process therefore do not care about the issue.

Having said that, I should remind people that the Democrats are supporting this motion. I think it is sufficiently important and, given some of the other circumstances around at the moment, appropriate to have a focused, honed examination of this particular aspect. Part of what influences my view on this matter is what I referred to before—the performance of this government in areas like the debate about interrogation et cetera. Senator Evans from the Labor Party successfully moved for an inquiry into that matter earlier this week. Again, in that case, he consulted the other parties and ended up moving the motion to set up that inquiry jointly with Senator Allison and Senator Brown. That is an example of cross-party support.

In that example, we saw extraordinary dissembling and ridiculous word play from the government and the Minister for Defence, Senator Hill, about whether we had interviews or interrogation. The people who were actually there on the ground were saying, ‘I was involved in interrogation,’ and the minister was saying, ‘No, they were interviews.’ I know who I would go with, and that is the person who was actually there and can say what occurred—the people who are sufficiently experienced and capable that our government and our defence forces chose to put them in these positions. They are obviously people of high capability. As soon as they come out and say something that embarrasses the government, they get dismissed. There are insinuations that somehow or other they have hidden agendas, they are not capable or there is some other problem with them. You get insinuations and character attacks on the people involved.

That is one area that the Senate has chosen to examine further, because there are clearly a lot of question marks there. I think this is another area that the Senate should choose to examine further. In fact, whilst there are some differences, there is an argument for
merging the two inquiries or issues. There is also an argument to the contrary, I might say, but I think it could at least be considered, because there are overlaps. Paragraph (b) of the terms of reference refers to ‘any Australian involvement in, or knowledge of, the practice of torture overseas’. Interrogations do not necessarily involve torture except in their more extreme form, but there is obviously a continuum there about what Australia knew and, indeed, what Australian involvement, if any, there was in some of these clearly unacceptable practices. These practices clearly breached international law—which, as Senator Ludwig rightly pointed out, the Australian government has until recent times been quite strongly promoting. So there is some overlap there.

Whilst the Democrats are supporting this motion, it appears it will not be passed. I suggest that that should not be the end of it. We should continue to explore ways in which these matters can be examined as effectively as possible. I think that can and should still be done. The matter is not whether people support this practice, because clearly we do not. The opposition does not and, one would hope, the government does not. The question is how we most effectively investigate it, so I think this approach suggested here would be useful and would bear fruit.

Obviously, this has some links with Mr Habib in particular. Mamdouh Habib presents some very vexed issues for people involved in public debate. The Democrats, particularly my colleague Senator Greig, have spoken out strongly over a long period of time about our concerns about the way Mr Habib and Mr Hicks in particular have been treated. Of course, when you do that, you are portrayed by the government as supporting people who are allegedly terrorists or involved with terrorists. Often it is at that time when it is most important to defend people’s rights. When people are unpopular and may have done heinous acts, that is when you should be particularly strong on defending people’s rights. It is easy to defend the rights of people who are popular. You have to defend the rights of all people equally because, when you are defending the rights of people such as Mamdouh Habib, you are defending the rights of all Australians. It is a simple fact that circumstances can always conspire in various unanticipated ways, where somebody’s rights can be at risk. Those rights need to be defended and, if they are not defended when it is more difficult, then there is a much greater risk that people in the community whose rights are being breached will also suffer when they should not have to.

Given the ongoing statements being made through the media by a range of people, including Mr Habib himself, I think it would be useful for him to have an opportunity to present before a Senate committee and have some of his claims tested. I am not sure whether that would end up being a positive or a negative for him, but that is not the issue for me. The issue for me is to try and get the facts out in the open and ensure that due process is followed from all perspectives. Clearly, the situation of Mr Habib is presenting ongoing difficulties for some people in the Islamic community who are torn between wanting to defend this person’s rights and being concerned about how public perceptions of their wider community are perhaps being distorted at the same time. So something that can get this matter more fully out in the open and more comprehensively tested across the board could be much more widely beneficial than just for the sake of Mr Habib. It could also be more beneficial to get the facts about what the Australian government or their agencies have or have not been involved in or what knowledge they do or do not have. I think it is sufficiently serious that it needs proper examination.
Another factor that has to be put into the mix is that, as we all know, the Senate composition will change at the end of June. The government will have the numbers and inquiries such as this will become more difficult to set up. That does not mean that we should be setting up a whole range of ill thought out inquiries just so that we have them all in place. Inquiries can continue, certainly until at least August, if they are set up before the end of June. I suggest that it would be at the government’s peril if they sought to close down any inquiries that had already been established. I think it would be highly unwise of them to do that, even though they would technically have the power to do so once the Senate reconvened in August.

In other circumstances there would be an argument for doing this in a more measured, drawn out way. The estimates process has already been mentioned. That is a less exciting process that does not get headline stories as regularly and does not get splashes on morning radio as often, but it is often more thorough. It is often drawn out over a range of different hearings—often over years—to get to the truth of matters. There are questions and answers, and then questions often follow on from the answers given. It can take a long time. Media interest tends to move on, but the substance of the matters is as important as ever, and taking that time often produces better results.

I assume that estimates committees will still operate after the government gets control of the Senate. One would certainly suggest that it would be highly inappropriate for those committees to be closed down or curtailed in any way. So that process would still be open. Most of the people who would provide information to an inquiry such as this would be the people who also appear before Senate estimates committees. There would not be too many people who would have knowledge of these matters, other than the government agencies themselves who appear before estimates. The key difference between the estimates process and this inquiry is that the inquiry will allow others to put in submissions or to appear before the committee—whether they are well-known people, such as Mr Habib, who have already made allegations or other citizens who may have information that they wish to provide to the committee and the committee may wish to test at a public hearing. That is the key difference between this inquiry and the estimates process. That is one reason why, on balance, this approach should be supported.

I suggest to all senators—in particular, the opposition and even the government—that this is a matter that should continue to exercise people’s minds, even if it does not succeed today. It is an incredibly serious issue. We are continuing to see more ways of getting around long-established, accepted standards of how people should be treated, in time of war and outside of it. I do not accept that just because the phrase ‘war on terror’ is used it means we are at war. Again, I think that is false word play that should be resisted. But it does not dispute the fact that we do have a serious challenge in the face of terrorism and it presents tests of those long-established standards of how we should behave.

As the UK courts quite wisely decided towards the end of last year, in many ways it is at that time that you need to most strongly defend the freedoms, standards, rights and traditions that our societies and democracy have been built on. Democracy was not established overnight, despite what the government might occasionally suggest has happened in Iraq. Democracy evolved literally over centuries. Those freedoms evolved with it, and you do not want to water them down or toss them out at the first sign of a threat. That is at risk of happening here. That is why
this is such an important and fundamental matter and why it should be examined. In that sense, I very strongly support and endorse the very passionate comments of Senator Brown, as we support this motion.

Given that the motion is not likely to succeed today, I think we—and, I would hope, even the government—need to look at ways to engage more cooperatively. It is in all of our interests in the long term to ensure that these sorts of practices do not develop and that not only we are not involved in them but also we strongly work against them in the international community as well as in community debate in Australia.

The ACTING DEPUTY PRESIDENT (Senator Sandy Macdonald)—The question is that the amendments moved by Senator Bartlett be agreed to.

Question negatived.

Senator BROWN (Tasmania) (10.22 a.m.)—I will close the debate in the absence of a government contribution. That itself is an indictment of the government. The government is too gutless to come in here and defend the indefensible position of the Prime Minister, the Attorney-General and the cabinet in effectively taking part in an illegal international process which the Bush administration has taken on.

Let me make this absolutely clear: for an Australian government or minister, including Attorney-General Ruddock, to in any way be part of a process which leads to the torture of an Australian citizen is unlawful and a breach of international law as well as, if it occurred in this country, domestic law. Let me repeat that: for any minister, be it the Prime Minister or the Attorney-General, to be complicit either actively or by default in allowing a process which leads to the torture of an Australian citizen, or anybody else for that matter, where Australian intervention could have stopped it is a breach of Australian law. That is a very serious charge. It is one of the reasons why this Senate inquiry should be proceeding. I am not satisfied with Attorney-General Ruddock saying that torture under no circumstances is permissible as far as he is concerned, any more than I am satisfied with President Bush saying the same thing and then being part of a process which not only allows torture to occur covertly but also expends taxpayers’ money in facilitating and deliberately leading to the torture of people who are taken from second countries.

There is a prima facie case here that the Australian government supports the Bush administration’s policy of rendition. Have we heard Prime Minister Howard say that he opposes it? I challenge him to stand by Australian law and say that we will have no role or part in, give no support to and absolutely oppose the US administration’s use of rendition—that is, the torture of prisoners. Will we hear Prime Minister Howard state unequivocally that he upholds Australian law and will not have part in, condone and turn his back on a process by the US or anybody else that leads to the torture of prisoners? Is Attorney-General Ruddock going to make it explicit that not only he does not condone torture in any form but also he is actively working to ensure that it does not happen, and that he opposes the US policy of rendition and will not have a bar of it? No, there is silence from our government. That must result in a shudder running down the spine of everyone who believes in our democracy. SBS Dateline last night reported:

Up until a year ago, John Radsan was legal counsel for the CIA. One of his tasks was to build a legal framework around the administration’s tough new anti-terror policy. He raises the possibility that if Habib was tortured in Egypt, then Australia may also bear responsibility for what happened.
JOHN RADSAN: If my assumptions are true—and I think they are—that Australia is a part of the convention against torture, that they have similar prohibitions against torture in Australian law, and if the Australians were involved in Mamdouh Habib’s transfer, if they had control, if they had jurisdiction over him, or if they shared jurisdiction with American authorities, then I think they’re drawn into the responsibility.

He goes on to say:
The other possibility is they’ve kept a distance and they’ve been apprised that the Americans are going to transfer that person to Egypt. That may have different implications, different legal implications, but I think from an Australians perspective you would ask, ‘Shouldn’t my Government be doing more to protect me? I’m an Australian citizen—and not to allow me to go to a country that people have a fair reason to believe, tortures people.’ But that’s a political question less a legal question.

I put the political question to this chamber: should we not have a high priority—because undoubtedly we have a responsibility—to uncover all we can about this process of governments elsewhere, if not here, breaking international and domestic law? Should we not be concerned if the Bush administration breaks its own laws—specifically if, in 1998, Congress passed a law that the US could not be involved in torture within the US or anywhere else? The CIA and the Bush administration are law breakers. Are we to turn our backs if the Howard government drifts down that line?

The only way we can ensure that this parliament, which is the supreme power in the Commonwealth of Australia, remains the watchdog over government that it should be is to get the information that is required. There is only one way to get that information, and that is through a Senate inquiry. The opposition and the Democrats may say, ‘Perhaps this isn’t the best way to do it.’ Where is their alternative? That is the test, and they have no alternative. The opposition today has failed its responsibility as an opposition in this parliament because, above all, its job is to know what the government is up to. These are not just any claims; these are serious claims which question this government upholding the law. The opposition says, ‘We don’t want an inquiry into that; least-ways not this way and we have no alternative.’ This Labor opposition is weak. It is failing in its duty. It is not taking on this government when it should. It is the political decision that the opposition has made, and it leaves the Greens to do its job for it. We may not have the vote, but I can tell you that we are doing the right thing here.

It is a shameful day, with the opposition welshing on its responsibility in this place in the way it is about to. It is a shameful process. The Greens made it clear that we would give the opposition more time to consider the matter—this is too serious for that not to happen—but it did not need more time. One suspects that it just wants to get it off the plate; the same as Attorney-General Ruddock wants to get it off the plate; the same, no doubt, as Prime Minister Howard wants to get it off the plate. It will come back to haunt us. You cannot turn your back on torture, having signed international conventions and led the international debate against torture, wherever it might occur, and expect no ramifications.

Let me put this clearly again: if we are going to entertain torture anywhere in the world, then let us debate it and let us set the ground rules. Let us not be cowardly about it. Let the opposition and the government come up with their proposals as to when torture is justified. I challenge them to do it. And, Madam Acting Deputy President, do you know what? They will not. They know the abhorrence with which torture is held and they know there is no defining line once you say yes to torture. You have crossed the barrier into what US commentators have called
the ‘dark side’. Vice President Cheney said that we must cross to the dark side. Well, Mr Cheney, not me, not the Greens—and, I submit, nor should this parliament, nor the Australian government, cross to the dark side. Certainly if you are going to go there, take a torch with you and let the people of the country see what you are up to. The worst thing to do here is to turn your back on it and say, ‘We’ll leave it to these covert, illegal operations—this breaking of the law by governments,’ including, extraordinarily, the US administration. If we condone them doing it, we are effectively doing it ourselves.

This ought to have been a critical inquiry. This is a critical debate. The government could not even get to its feet and stand for its untenable position, because this government has no leg to stand on here. So it has gone into a silence which echoes with trouble, which is a warning to us all that there is no debating this issue, there is no defence of torture. The government cannot defend it, and it should be on its feet now, stating explicitly that it stands by international conventions and Australian law in this matter. There is no bending or twisting of it. There is no new interpretation. There are no exceptions. That is what the government should be saying, but it is not. It is the wink, wink, nod, nod terrible usurpation of the values of this nation, that the US administration has entertained and taken on board and the Australian government itself is now entertaining. It is cowardly for the government not to be standing on this issue. It is cowardly not to be answering the claims that are arising in the public debate. Thank God, we do have the fourth estate here; thank God we do have the media; thank God we do have programs like SBS’s Dateline to alert us to the matters that this Senate apparently does not want to hear aired in the form of this committee.

Question put:

That the motion (Senator Brown’s) be agreed to.

The Senate divided. [10.40 a.m.]

(The President—Senator the Hon. Paul Calvert)

Ayes…………. 8
Noes…………. 43
Majority……. 35

AYES

Allison, L.F.  Bartlett, A.J.J. *
Brown, B.J.  Cherry, J.C.
Greig, B.  Murray, A.J.M.
Nettle, K.  Ridgeway, A.D.

NOES

Abetz, E.  Barnett, G.  Brandis, G.H.
Buckland, G.  Calvert, P.H.
Campbell, G.  Chapman, H.G.P.
Colbeck, R.  Cook, P.F.S.
Crossin, P.M.  Denman, K.J.
Eggleston, A. *  Evans, C.V.
Ferguson, A.B.  Ferris, J.M.
Fifield, M.P.  Forshaw, M.G.
Harris, L.  Hogg, J.J.
Humphries, G.  Johnston, D.
Kirk, L.  Knowles, S.C.
Ludwig, J.W.  Lundy, K.A.
Macdonald, J.A.L.  Mackay, S.M.
Marshall, G.  Mason, B.J.
McLucas, J.E.  Moore, C.
Murphy, S.M.  O’Brien, K.W.K.
Payne, M.A.  Santoro, S.
Scullion, N.G.  Stephens, U.
Tchen, T.  Tierney, J.W.
Troeth, J.M.  Watson, J.O.W.
Webber, R.

* denotes teller

Question negatived.

Environment, Communications, Information Technology and the Arts References Committee Report

Senator CHERRY (Queensland) (10.44 a.m.)—I present the report of the Environment, Communications, Information Tech-
nology and the Arts References Committee, entitled *A lost opportunity?*, inquiring into the provisions of the Australian Communications and Media Authority Bill 2004 and related bills and matters, together with the *Hansard* record of proceedings and documents presented to the committee.

Ordered that the report be printed.

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

Leave granted.

**Senator CHERRY**—I move:

That the Senate take note of the report.

This is a very important report, in my view, because it deals with the very important issue of appropriate regulation of the telecommunications and media industries in Australia. The government has proposed the merger of the Australian Communications Authority and the Australian Broadcasting Authority to form a new regulator called the Australian Communications and Media Authority, or ACMA, as the new acronym will be.

The committee considered that proposal and took evidence from 24 organisations over two days. It has considered the proposal in some detail. The committee came to the conclusion that, whilst the proposed merger of the two authorities has been welcomed by industry and consumer bodies, there has been a deep concern that the government has failed to deal with the underlying problems of holes in the regulatory framework of both the ABA and the ACA as they currently exist. Fundamentally, the two regulators are perceived to not have a sufficient pro-consumer focus and bias. Fundamentally, both organisations, the ABA and the ACA, rely very heavily on the self-regulation of industry by industry and, essentially, have a light touch approach to regulation.

Indeed, the Telecommunications Act prescribes self-regulation and a light touch as the required method of regulation of telecommunications. That works fairly well for technical issues, for technical standards, but when you get into areas of infrastructure, consumer protection, broadcasting standards and, more importantly, the enforcement of standards, that self-regulatory approach starts to fall down. That is one of the fundamental concerns which this committee has identified: that if we are going to have proper regulation of telecommunications and broadcasting in Australia then we need to ensure that there is much more emphasis in law on promoting consumer outcomes, better competition to promote consumer outcomes and less emphasis on leaving it to industry to sort out between the big players what the rules are going to be.

The ACMA is modelled on the British super-regulator Ofcom, which was established two or three years ago from a merger of five regulators of media, broadcasting and telecommunications in the UK. Yet Ofcom, as a model, has ended up with powers far in excess of what ACMA is proposed to have. In particular, Ofcom has a much stronger consumer emphasis. It has a content panel which deals with issues of broadcasting standards and ensuring that there is community input into broadcasting standards. It has a consumer panel to ensure that there is a consumer emphasis. It has a policy role of advising government on holes that are emerging in the regulatory framework and how that can be improved into the future. In addition, it has much stronger enforcement procedures. But, most importantly, it has a strong mandate from the parliament of Britain to regulate communications in the interests of consumers. That is what the committee found was missing from the ACMA Bill—that strong emphasis on consumer outcomes.

In evidence which we received from the ACA and the ABA, it became quite clear that—and certainly the acting chair of the
ACA acknowledged it—the role of consumers in regulation had been missing in the ACA’s work since 1997. It is something that they are trying to address. Indeed, they have commissioned a report from a consumer panel on improving consumer representation in telecommunications issues. One of the recommendations of this committee report is that proposals to improve consumer representation be given urgent consideration by the ACMA and by the government because there is a major hole in the current regulation. Consumers are put last. It is time that consumers were put first and industry was put back in its proper place.

The recommendations of this committee include changing the Telecommunications Act and the Broadcasting Services Act to put more emphasis on consumer protection and the promotion of competition and less emphasis on industry self-regulation. The committee calls for a comprehensive strategic review of the entire regulatory framework by the ACMA over the next two years, modelled on the wide-ranging inquiry currently being undertaken by Ofcom in the UK. We need that if we are going to get the benefit of this merger in place. We need to look at the synergies that can be achieved between the two sectors with convergence. We need also to look at the holes in the current regulatory regime and look over the horizon at what the needs will be into the future. So that strategic review is a very important need and is the real lost opportunity in the current ACMA Bill.

We recommend a closer working relationship between the ACMA and the ACCC. We recognise that the ACCC needs additional resources to do its job of regulating telecommunications and that there needs to be a better understanding between the two authorities of the overlap between technical regulation and competition regulation, as one feeds the other. We call for the establishment of a content board, based on the UK model, to give the community more of a say in the development of broadcasting standards. We call for the broadening of the scope of the Telecommunications Industry Ombudsman to cover complaints right across the communications industry. We call for a Productivity Commission review of the possible structural separation of Telstra, because it is recognised that a fundamental problem in the regulation of telecommunications is the structural impediments to competition. Until we look at the pros and cons of structural separation, until we look at the pros and cons of alternative ways of dealing with those structural impediments to competition, regulation is never going to work in Australia. You cannot regulate a monopoly when that monopoly has undue market power. It is time for the government to take on board the recommendation on structural separation.

I should note that the committee made 18 recommendations. Four of the recommendations were reiterating recommendations we made in our inquiry into broadband last year. All 18 of the recommendations were endorsed by the Labor and Democrats members. Four were endorsed in full by the government members and seven were endorsed in principle by the government members. Seven, including the four relating to broadband and structural separation, were rejected by the government members. That shows the very strong support in this committee for a new approach to the regulation of telecommunications and media in Australia—an approach where consumers are put first and foremost in the eyes of the regulators and an approach that has the parliament saying to the regulators, ‘You must put consumers first, you must take competition more seriously and you must put less reliance on the industry club coming up with a self-regulatory model.’ It is interesting that all
parties in the committee have recognised that need.

As we approach the debate about the future of Telstra, I think the government needs to take that message on board and develop a regulatory framework that puts consumers first and foremost, develops a strategic approach to telecommunications regulation that will change over time and ensures that we have regulators with the teeth to deal with the enormous size of the players in both telecommunications and media. I want to acknowledge the support of the committee secretariat, particularly Louise Gell and Jacqueline Dewar, in helping to produce this report. I thank the 24 organisations which made submissions to the inquiry. I commend the report to the Senate. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

BROADCASTING SERVICES AMENDMENT (ANTI-SIPHONING) BILL 2004

In Committee

Consideration resumed from 9 March, on motion by Senator Hill:

That this bill be now read a second time.

The CHAIRMAN—The committee is considering amendments (1) and (2) on sheet 4531, revised 1, moved by Senator Conroy.

Senator LUDWIG (Queensland—Manager of Opposition Business in the Senate) (10.53 a.m.)—It appears I am Senator Conroy today. I have not only moved his motions—

The CHAIRMAN—I would not put that on the record.

Senator LUDWIG—No, but I think I have. I can say I do not have the sartorial elegance of Senator Conroy, nor do I look like him. But, although I make light of it at the beginning, there is a serious debate in relation to this matter. Unfortunately other matters cropped up that Senator Conroy had to attend to. In this instance I think it is worth while to at least go back to the start, because the debate has been truncated—we left the debate yesterday. I have been following it. It is an issue that I have an interest in. In relation to broadcasting, one of my roles includes justice, customs, citizenship and multicultural affairs. The ethnic broadcaster is a terrific organisation and has been ensuring that broadcasting is out in the community and in touch.

This debate—and this was mentioned by Senator Conroy in the debate on the second reading—is about the antisiphoning regime. 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 to pay TV. What we have said is that Labor believe that the ability of third parties, such as channel providers, to acquire events before the free-to-air networks have the opportunity to undermine the effectiveness of the regime.

We have moved amendments to try to—and I think they do—ensure that the antisiphoning regime captures related parties to pay TV licensees such as channel providers. Of course, related parties to a licensee will not be able to acquire the rights to listed events in circumstances where a licensee could not. To achieve this objective, the amendment draws on the concept of control, which is used elsewhere in the Broadcasting Act. In general terms, to achieve this objective, the amendment draws on the concept of control, which is used elsewhere in the Broadcasting Act. In general terms, to achieve this objective, the amendment draws on the concept of control, which is used elsewhere in the Broadcasting Act. In general terms, to achieve this objective, the amendment draws on the concept of control, which is used elsewhere in the Broadcasting Act. In general terms, to achieve this objective, the amendment draws on the concept of control, which is used elsewhere in the Broadcasting Act. In general terms, to achieve this objective, the amendment draws on the concept of control, which is used elsewhere in the Broadcasting Act. In general terms, to achieve this objective, the amendment draws on the concept of control, which is used elsewhere in the Broadcasting Act.
mend to the Senate the amendment at item (2).

It is also worth saying that this government should pick up the amendments. They have the ability to ensure that there is a proper and appropriate antisiphoning regime and that there are not loopholes that people will try to exploit that are not in the interests of the watchers, the consumers, of these products. Sometimes it is only through the course of events that you find these ways of getting around the legislation coming up. We have a unique opportunity to ensure that is now put to bed—that the government pick up on these amendments and ensure that they are adopted and that the antisiphoning regime is tough but reasonable.

Senator CHERRY (Queensland) (10.57 a.m.)—The Democrats will be supporting the two Labor amendments on sheet 4531 to close the loophole in respect of the antisiphoning list. In some ways it is an on-balance issue. We acknowledge that the pay TV industry does not believe there is a loophole—that there is no problem to be dealt with in this area—but in some ways, having looked at the evidence and through the committee Hansards, particularly at the treatment of the Ashes issue, we have come to the view that there is a loophole in this area and that it does need to be closed. I am disappointed that the government continues to refer to this particular loophole as the ‘so-called loophole’, because, when you deal with a situation where the antisiphoning list applies to Foxtel but not to channel holders such as Fox Sports, it certainly makes it very difficult in a commercial sense to achieve the commercial outcome sought of the antisiphoning list, which is that the free-to-air providers get a reasonable go at picking up items that are listed on the antisiphoning list before they are available to pay TV. There is a lot of commercial interest in this area. The pay TV providers dispute the fundamental question that is constantly raised by free-to-air providers: if you put sport on free-to-air television you need exclusive rights as opposed to shared rights. That debate has been going on for as long as there has been an antisiphoning list in this country.

However, what is fundamental is that the antisiphoning list is a decision of this parliament. It is a decision of this parliament that we will provide the opportunity for all Australians to see key sporting events on free-to-air television. If that is the intention of this parliament—if that is the starting point for this parliament—then we have to make sure the list works effectively. The list will not work effectively in a commercial sense while we allow this loophole, which allows related parties of licence holders to buy rights in a way that is not quite picked up by the antisiphoning regime. It is a loophole worth looking at. I commend these amendments to the government. They are important. I notice they do not go quite as far as the free-to-air lobby would have liked, and that is appropriate. We are simply dealing specifically with the issue at hand, rather than seeking to provide an excessive benefit to one side in the commercial debate rather than the other. I acknowledge that these issues are matters of commercial negotiation, but I believe we have to come back to the fundamental point: for what reason do we have an antisiphoning list? If we have an antisiphoning list, let us make sure it operates effectively. These amendments help to achieve that.

Senator ABETZ (Tasmania—Special Minister of State) (11.00 a.m.)—The Senate has got a raw deal today. We did not hear from Senator Conroy and instead we got Senator Ludwig; and, on this side, we will not be hearing from Senator Coonan but from me. So the Senate is unfortunate in that regard. But I am sure that Senator Ludwig and I will muddle through nevertheless.
It would come as no surprise to the opposition and the Democrats that the government opposes these amendments. The government does not support the amendments relating to what is referred to by some as the loophole in the antisiphoning regime. In the government’s view, it is not clear that the intention and operation of the antisiphoning scheme are being circumvented under current arrangements. As the government has said on previous occasions, this is an issue it is prepared to look at but there is no evidence to suggest that the antisiphoning rules are being infringed.

The current licence condition imposed on pay TV licensees prevents a pay TV licensee acquiring rights from an associated company before they have first been acquired by a free-to-air broadcaster or the event has been delisted. If a free-to-air broadcaster considers that it has not had a reasonable opportunity to acquire the rights to a listed event, it can still apply to the minister for the event to be retained on the list and not be subject to automatic delisting, thereby preventing exclusive pay TV broadcast of the event. In addition, the government is not convinced that a compelling case has been made by free-to-air networks in relation to the necessity for access to exclusive rights to listed events. The acquisition of free-to-air rights to the 2005 Ashes cricket series by SBS and the Seven Network demonstrates that the scheme continues to work effectively to protect the free-to-air coverage of key events that Australians have traditionally enjoyed on free-to-air television.

The government are committed to the antisiphoning regime that currently operates. Any significant changes to the way this complex regime works need to be undertaken carefully and in consultation with all relevant stakeholders. As I have said, we will continue to monitor the operation of the antisiphoning list to ensure it properly reflects the attitudes of Australians and the commercial realities of the sporting and broadcasting sectors. This bill is the completion of the commitment the government made at the time we published the revised antisiphoning list in April 2004. Along with the announcement of the revised list, we committed to extending the delisting period, and that is the purpose of this bill.

There are also compelling legal grounds which justify the rejection of these amendments. The amendments seek to address two issues: the capacity for pay television licensees to acquire free-to-air rights to listed events and the acquisition of rights to listed events by companies associated with pay television licensees. However, the amendments are poorly drafted and give rise to a number of serious concerns.

The proposed clause 10(1C) is very broad in scope. It would make pay television licensees responsible for the business decisions of their owners or controllers or other entities owned or controlled by those owners or controllers. Licensees clearly should not, as a matter of fairness, be held responsible for the actions of persons they are not in a position to control. There is some case law to suggest in fact that this provision would not even be enforceable for that reason. This amendment is so unclear it is not at all beyond the possibility that, for example, Foxtel could be put in breach of its licence if a company within the Nine Network acquires the free-to-air rights to an event but does not have arrangements for those rights to immediately flow to the Nine Network companies that hold their commercial television licences.

The purpose of proposed clause 10(1)(eaa) is not clear. It is unclear that this adds anything to proposed clause 10(1C). Clause 10(1)(eaa) provides that if a subscription television licensee broadcasts a listed event that has been acquired in breach of
clause 10(1)(e)(i) then the licensee is in breach of the licence condition. However, the initial acquisition by a licensee or an associate puts the licensee in breach of the licence condition in clause 10(1)(e) because of clause 10(1C). There is therefore no need to make it an additional licence condition that the licensee must not broadcast an event that it has acquired in breach of a licence condition. For drafting reasons alone, these amendments should be rejected.

I turn to the impact on the regulator. The provision in proposed paragraph (1C) of the amendment relies on the notion of a person being ‘in a position to exercise control’ of a company. It borrows this phrase from the ownership and control provisions of the Broadcasting Services Act, part 5 and schedule 1. The concept of being ‘in a position to exercise control’ is a complex one. For the ABA to determine whether a particular person is in a position to exercise control over the licensee under paragraph 10(1C)(a) of the proposed amendment—or another person, presumably another company, under paragraph 10(1C)(d)—would require the Australian Broadcasting Authority to undertake a detailed investigation.

Given the short period of time that may be involved between acquisition of rights and the actual event, relying on the ABA to make a detailed investigation into the control of companies is problematic. The ownership and control provisions of the Broadcasting Services Act were specifically designed to deal with the control of broadcasting licences. This amendment takes those provisions and employs them for a significantly different purpose—tracing the relationships between what is potentially a very large network of relationships between companies both within and outside the media sector, including for example every entity in the News group, PBL group, Telstra group and SingTel group. For the range of reasons I have outlined, this amendment is opposed by the government.

The CHAIRMAN—The question is that the amendments moved by Senator Conroy be agreed to.

Question agreed to.

Senator LUDWIG (Queensland) (11.09 a.m.)—I have a couple of issues I want to raise with the minister. Minister Abetz, I appreciate that the Minister for Communications, Information Technology and the Arts is not here, but I am sure that you are reliably assisted by the advisers. In the report into the bill, government members of the Senate communications committee recommended that ministers should consider examining the so-called loophole in the antisiphoning regime and whether this may circumvent the scheme. Is the government going to examine this issue in any greater detail than it has already, and will it take that recommendation on board? I can go on to another couple of questions, to give the advisers time. What is the minister’s position on the matter? What advice have the ABA given on this matter? If they have given advice, and I understand they have in relation to this part, will the minister make that advice public, particularly given that it would assist all parties to understand this area? Minister, I have a couple of other points but perhaps you could provide a view about what I have asked about so far.

Senator ABETZ (Tasmania—Special Minister of State) (11.11 a.m.)—I think I am able to sound knowledgeable in relation to the matters raised thus far by Senator Ludwig, and I respond as follows. In relation to the second recommendation, that the government examine the issue of the so-called loophole, the government has previously considered this issue in response to a request from Free TV Australia. The antisiphoning license condition imposed on pay TV licensees does not prevent an associated company
that is not a subscription television broadcasting licence holder, such as a pay TV channel provider, acquiring free-to-air and/or subscription rights to listed events. I must be doing badly—I have just noticed the Minister for Communications, Information Technology and the Arts coming in to assist! However, if a pay TV licensee then acquires those rights from that associated company before they have first been acquired by a free-to-air broadcaster or the event has been delisted then that pay TV licensee is in breach of its licence conditions. The committee rejected the argument that the antisiphoning provisions were intended to provide free-to-air broadcasters with exclusive access to the broadcasting rights of listed events. Don’t you go anywhere, Minister!

I am aware that the committee considered the issue raised by Free TV Australia of whether a pay TV licensee acquires the rights to listed events from a pay TV content provider when it broadcasts that event in the absence of any formal transfer of rights. Advice obtained by the government indicates that a licensee effectively obtains the rights to events by broadcasting them even in the absence of the formal transfer of rights. As a consequence, the critical safeguard of the scheme remains in place. If a free-to-air broadcaster considers that it has not had a reasonable opportunity to acquire the rights to a listed event, it can still apply to the minister for the event to be retained on the list and be not subject to automatic delisting, thereby preventing an exclusive pay TV broadcast of the event. Nevertheless, the government agrees with the committee’s second recommendation and will continue to monitor the scheme for any evidence that rights holders are seeking to circumvent the intent of the antisiphoning scheme in the manner suggested to the committee. Can I say that the questions are now getting easy, and I feel comfortable in handing over to Senator Coonan.

Senator LUDWIG (Queensland) (11.14 a.m.)—The nub of that answer seems to be that you are going to monitor this. It seems that the ABA are going to monitor it. Particularly, will you be able to provide the published view that the ABA have about it now? If they are going to monitor it, will you continue to provide the ABA’s findings and outcomes of that monitoring process? That is the only way you are going to ensure transparency in the system. You say there is no loophole and we say there is a loophole, and I think that during the committee stage and the legislation committee’s examination we have been able to demonstrate that there potentially is a loophole. There certainly seems to be evidence of one. If you say there is not and we say that there may be, then put a transparent process in place. If the ABA are going to monitor it, let them come to the table and say no.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (11.15 a.m.)—First, I express my appreciation to my colleague Senator Abetz for continuing with the carriage of the committee and I apologise to my colleagues for being unable to be here to hear all of the debate. Indeed, I just caught the end of Senator Ludwig’s question. But, as I understand it—and I will be corrected if I am wrong—there has not been a formal report of the ABA since 2001.

Senator Ludwig—That’s the point, Minister.

Senator COONAN—Yes, there has not been one, but we will give consideration to how we think it should best be monitored. I am not going to be giving commitments here, but I will acknowledge that there can be some advantages to making the process perhaps more public and more transparent. It
is difficult, but we take on board the issues relating to the operation of the scheme. We have said that obviously we will keep a very close eye on it. Just how formal you really want to make it is obviously a matter for debate. For the purposes of today, I would say and put on record that we will be keeping a very close eye on it.

Question agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (11.17 a.m.)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

ABORIGINAL AND TORRES STRAIT ISLANDER COMMISSION AMENDMENT BILL 2004 [2005]

Second Reading

Debate resumed from 1 December 2004, on motion by Senator Ellison:

That this bill be now read a second time.

Senator CARR (Victoria) (11.17 a.m.)—As the shadow minister for Indigenous affairs and reconciliation, I am today delivering the opposition’s speech on the second reading debate on the Aboriginal and Torres Strait Islander Commission Amendment Bill 2004 [2005]. This bill abolishes ATSIC. The opposition agrees with the government that there needs to be a major revamp of the form of national representation of Australia’s Indigenous people—but that is where we part company with the government. We fundamentally disagree with the government’s approach to implementing its new arrangements. However, we acknowledge that the abolition of ATSIC is an administrative fait accompli.

Labor has a firm policy in support of the principle of a national Indigenous representative body. The government’s new National Indigenous Council is not chosen by Indigenous people and does not represent them in any meaningful way. It has lacked legitimacy from the start, and the secretive way in which it operates has served only to confirm the worst in terms of its role.

In December 1992, in launching the 1993 Year of the World’s Indigenous People, former Labor Prime Minister Paul Keating gave a speech. It is one of the great speeches given by an Australian Prime Minister about Indigenous affairs. Of the newly established ATSIC, he said:

ATSIC emerges from the vision of indigenous self-determination and self-management.

... ... ...

All over Australia, Aboriginal and Torres Strait Islander communities are taking charge of their own lives. So they were. But that is no longer to be. In failing to replace ATSIC with another representative body—a body funded by the government to do its job—this government has chosen to close its eyes to the vision of Indigenous self-determination and self-management. Indeed, the government’s approach through this bill, with the abolition of ATSIC and its regional councils, not only winds back the clock in terms of Indigenous representation but also removes the requirement for consultation with Indigenous people across a range of important areas. For example, under this bill there will no longer be a requirement for the minister to consult with Indigenous people before appointing new directors of either Indigenous Business Australia or the Indigenous Land Corporation. It speaks volumes about the government’s so-called partnership model that it does not even...
acknowledge the rights of Indigenous people to be consulted on issues of fundamental importance to their wellbeing; it speaks volumes about the government’s view of Indigenous participation in the economic development of communities and the implementation of measures to address poverty and social exclusion.

Australia’s Indigenous people have been dispossessed. They have been massacred, they have been insulted and they have been made to suffer by the actions of non-Indigenous Australians. Their needs and their rights have been monumentally ignored. Quoting again from the speech of Paul Keating:

... it might help us if we non-Aboriginal Australians imagined ourselves dispossessed of land we have lived on for 50 000 years—and then imagined ourselves told that it had never been ours.

Imagine if ours was the oldest culture in the world and we were told that it was worthless. Imagine if we had resisted this settlement, suffered and died in the defence of our land, and then were told in history books that we had given up without a fight ... Imagine if our spiritual life was denied and ridiculed.

Imagine if we had suffered the injustice and then were blamed for it.

This is still happening to Indigenous Australians today. Yet the pride, the resilience and the grace of Indigenous people, alluded to by Paul Keating, has been borne out to me and it is absolutely astounding.

As the recently appointed shadow minister for Indigenous affairs and reconciliation, I have had the pleasure and honour of meeting hundreds of Indigenous Australians. Most of them are the leaders of various Indigenous communities, and the colossal change that has occurred in Indigenous society and the damage it has done over recent years has been reflected in their stories to me. However, they also pointed out to me that over the 15 years since the establishment of ATSIC there has been an emergence and empowerment of many remarkable people. Some of the leaders I have met have commented to me that it was partly the agenda championed by the then Labor government—the reconciliation agenda and the establishment of ATSIC and representative structures—that provided them with the opportunity to develop their leadership skills.

The early nineties have been described as a time of hope for Indigenous people, both because of the Hawke and Keating governments’ commitment to Indigenous empowerment and self-determination and because that commitment was able to grow and articulate itself through the actions of Indigenous peoples themselves. The self-determination that ATSIC provided a framework for has played a significant role in building a critical mass of confident, proud Indigenous leaders who walk tall in Australian society, who command respect from us all and who ought to command respect from us all. In the policy of Indigenous affairs, they have led not only their own people but the rest of us. They have been generous with their time, knowledge and wisdom, and I believe that all Australians should be able to learn from them.

The Howard government’s approach to Indigenous policy has been described by its own apologists as being assimilationist. It has been about providing services to Indigenous peoples and communities on exactly the same basis as mainstream services for other Australians. It says it is an approach essentially designed to iron out the difference. The opposition approach—for the conservative commentators can only see two extremes—has been characterised as a separatist model, and those people who recognise that Indigenous cultures have a legitimate value and who accept the relationship to country and the sometimes different aspirations of Indigenous people are dismissed. In the run-up
to the 2004 election, a former Liberal Aboriginal affairs minister, Peter Howson, described this approach as being ‘Rousseauvian sentimentalism’.

This government’s approach is now crystal clear. Its attitude to ATSIC and Indigenous people was clearly articulated in 1988, but now it has become abundantly clear for all to see. When the bill to establish ATSIC was first introduced in the parliament in 1988, it was heavily amended by the opposition of the day. The debate in the Senate lasted 40 hours. At the time, it was the most heavily amended bill by an opposition in the history of the parliament. I will come back to that in a few moments. The Liberal shadow minister at the time was Mr Chris Miles, and during the last stages of the ATSIC bill, after acknowledging that the bill would be supported by the coalition, he said:

I do not believe that the saga of ATSIC is over by any means.

… … … …

We have argued our case against this legislation long and hard, rationally, clearly and extensively. … The Bill has, in effect, just fallen over the line as legislation. We are entering into uncharted waters with this legislation, and it bears all the seeds of its own destruction.

Senator Vanstone, also speaking in the parliament at that time, said:

… the minority report of the Senate Select Committee on the Administration of Aboriginal Affairs found, firstly, that the proposal for the Aboriginal and Torres Strait Islander Commission … was unjustified, unnecessary and culturally inappropriate and, secondly, that it would operate to the detriment of Aborigines and lead to worse services and to less accountability both to Aborigines and all Australians.

That was the view at that time, and it reflects the current view of this government.

The comment about ATSIC ‘containing the seeds of its own destruction’ is a very interesting one. Coming as it did from the former Liberal shadow minister for Aboriginal affairs, it might be seen now with hindsight as a promise of what a future coalition would do when it came to the abolition of ATSIC, regardless of ATSIC’s record and any achievements it might make. Actually, the ATSIC Act, as amended by the coalition in 1989, could be regarded as containing near fatal flaws because it was deliberately bastardised by the Senate, by the Liberals and by the National Party at that time. As it turned out, those amendments substantially reduced the effectiveness and workability of the legislation. They reduced its integrity as legislation. In fact, the Minister for Aboriginal Affairs at that time, Mr Gerry Hand, noted in his third reading speech on the bill that he was ‘disappointed’ in some of the amendments that the Labor government had been obliged to accept. Former Labor senator Michael Tate described these as ‘modifications that will be important in the actual operations of ATSIC’. In a speech made in 1990, Mr Hand made a related point. He said that ATSIC ‘has been white-anted from the first day’. He said that the commission had been undermined by the media and the Commonwealth bureaucracy, which did not trust ATSIC.

On its election in 1996, the newly formed coalition government launched a major attack on the auditing arrangements applying to ATSIC. The new government brought in an independent company of auditors, which found very little fault, I might add, with the financial affairs and accountabilities of the commission. At the same time, the coalition government cut $470 million from ATSIC’s budget over the ensuing four years and slashed several programs by up to 30 per cent. Finally, the Howard government placed severe financial constraints on ATSIC, prescribing the exact purpose for which over 80 per cent of its budget was to be used. ATSIC became a shadow of its former self in terms
of its decision making and policy formulation. In a real sense, ATSIC’s hands were tied from that point on. However, despite the restraints placed on it, ATSIC has managed successful programs which have seen communities generally take responsibility and make the most of the limited resources that are available to them. For instance, under the auspices of ATSIC, the Community Development Employment Projects scheme grew significantly, providing meaningful work for thousands of Indigenous people within their communities and supporting vital community development and cultural activities.

Another proud achievement of ATSIC is the successful Indigenous financial agency, Indigenous Business Australia, which provides grants and loans that assist Indigenous small businesses to find their feet and to grow successfully. Despite its faults, ATSIC and its regional councils have demonstrated that Indigenous self-determination can be a powerful force for community and economic development. Throughout the Northern Territory there are many important business operations occurring in mining, tourism, agriculture and a whole range of fields which have come about as a result of engagement with Indigenous people and the proper use of land rights facilities. All that is under threat and, as a result of this government’s policies, there is a clear indication and malice by this government to undermine those achievements.

There have been many examples of Indigenous controlled programs that have succeeded because, essentially, they target Indigenous people and address their specific needs. Unfortunately, this government refuses to learn the lessons of Indigenous success; it has preferred to paint all Indigenous controlled programs as corrupt failures. Now those and other programs are to be mainstreamed. Whether they can retain their unique features and, more importantly, their effectiveness—and I hope they do—remains to be seen. It remains to be seen how long the programs will be specifically identified as Indigenous. It remains to be seen how long the bureaucracy will take to swallow the programs and for the problems associated with the administration of Indigenous affairs to be swept under the carpet. That has been the history of this Commonwealth throughout the last 100 years.

A former Labor minister for Aboriginal affairs, Gerry Hand, said that he always saw ATSIC ‘as a beginning, not an end’. It was, he said, ‘a beginning to move to ... full self-determination’ for Indigenous Australians. While many Indigenous people have criticised ATSIC, to a person they seem to want to see a national representative structure again. They do not regard the government’s National Indigenous Council as anything like an adequate replacement. Nor do they see the very idea of a national representative body as divisive, or as a manifestation of apartheid or ‘separatism’—all the pejorative words that the government seeks to use when it describes this policy area. Mr Howard, throughout his political career, has referred to and used those terms. I want to quote his comments back in April 1989, when he told the House of Representatives:

... if the Government wants to divide Australian against Australian, if it wants to create a black nation within the Australian nation, it should go ahead with its Aboriginal and Torres Strait Islander Commission (ATSIC) legislation and its treaty. In the process it will be doing a monumental disservice to the Australian community.

This was back in 1989. He said:

I think it is a very bad step for the long term unity of this country to establish the structure envisaged under the ATSIC legislation.

... ... ...

The ATSIC legislation strikes at the heart of the unity of the Australian people ... I say to the Minister that if the Government establishes this
ATSIC legislation it will create more resentment and more division.

I ask the Government not to go ahead with the legislation.

When he became Prime Minister, he acted on those sentiments. John Howard’s scaremongering at the time of ATSIC’s establishment has proved to be entirely without foundation but it remains one of the great fantasies of the Right in Australian politics that those are the sorts of dark emotions that you churn up.

Some 10 years after the establishment of ATSIC, in 2000, hundreds of thousands of Australians—probably a million—walked across the bridges of this country to symbolise their commitment to reconciliation between Indigenous and non-Indigenous people. The Australian people were united in seeking true reconciliation. They were not divided, they were united. Neither Indigenous nor non-Indigenous Australians see Indigenous self-determination as a threat. The people who do see it in that way are in this government. On the contrary, the Indigenous people I have talked to see such a structure as a necessary condition—a base—for their full participation in Australian political and economic life.

The government’s ‘practical reconciliation’ agenda, the mainstreaming of service provision for Indigenous Australians, and the abolition of Indigenous representative organisations are diametrically opposed to the approach that most Indigenous people support. In fact, in pursuing its ‘assimilationist’ agenda, the government has produced division and resentment, and it has done so without achieving the practical goals it said it was aiming for. Over more than eight years in government the coalition has failed to make a dent in the inequality gap between Indigenous and non-Indigenous Australians. Its approach has done nothing to build economic prosperity or to end poverty or exclusion.


It is of particular concern that some of the gains made between 1991 and 1996 appear to have been offset by the relatively poor performance of Indigenous outcomes between 1996 and 2001.

The Howard government has failed Indigenous Australians and it continues to do so. The second reading amendment that I will move on behalf of Labor and other parties in the chamber—the Greens and the Democrats, who I understand cosponsor the second reading amendment—seeks to highlight these issues. The opposition also wishes to foreshadow that it will seek to amend the legislation in the committee stage.

I would like to leave senators with something further from Paul Keating’s 1993 Redfern speech. The then Prime Minister frankly described the injustices that confronted Indigenous Australians and he invited the rest of us to imagine that those wrongs had been done to us. He said:

If we can imagine the injustice then we can imagine its opposite. And then we can have justice.

Labor stand beside Indigenous Australian people in their struggle for justice. We will work with them to achieve the restoration of a comprehensive national representative structure that reflects the interests of Indigenous people and protects their rights. We will stand beside them in ensuring that they get a fair share of the economic development of this country that will end the poverty and exclusion. We will ensure that people get what is rightfully theirs as part of a truly democratic country. I move:

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

(a) notes:
(i) that the Government’s ‘practical reconciliation’ agenda has failed to improve outcomes for Indigenous Australians,
(ii) that there is no evidence that mainstreaming of service delivery will in any way help to address Indigenous disadvantage,
(iii) the Government’s failure to advance the goal of reconciliation between Indigenous and non-Indigenous Australians,
(iv) the Government’s failure to negotiate a treaty with Indigenous Australians or to guarantee self-determination for Australia’s Indigenous people, and
(v) that the abolition of Indigenous representative organisations will serve to further marginalise Australia’s Indigenous citizens;
(b) condemns the Government for failing to:
(i) consult or negotiate with Indigenous Australians on the provisions of the bill, and
(ii) develop a new legislative and administrative model that restores the right of Indigenous Australians to be responsible for their own future, despite the international evidence demonstrating that this approach delivers the best practical outcomes;
(c) supports the implementation of new legislative and administrative arrangements that restore responsibility and opportunity for Indigenous Australians; and
(d) calls on the Government to:
(i) guarantee that Indigenous communities will be genuine partners in the policy development and the delivery of services,
(ii) ensure that a properly resourced regional representative structure is developed according to the preferences of Indigenous communities, and
(iii) consult with Indigenous people for the purpose of negotiating the establishment of a new national Indigenous representative body whose members are chosen by Indigenous people".

Senator RIDGEWAY (New South Wales) (11.36 a.m.)—I rise to speak on the Aboriginal and Torres Strait Islander Commission Amendment Bill 2004 [2005], concerning the fate of ATSIC. The Australian Democrats strongly oppose this bill and we strongly oppose the direction in which this government is taking Indigenous affairs in this country. The Democrats believe, and I personally believe, that the ATSIC bill should be rejected in its entirety. We appreciate that the opposition have tried to negotiate a stay for regional councils, but I want to make some comments about that. To be honest, I do not think it should be lost on this place or the Australian people that it was the Labor Party that started the ball rolling in the same politically expedient way that the government deals with Indigenous people. That seems to be the hallmark of dealing with Indigenous affairs in this country: it is a ball that is thrown back and forth. Six months might help in some areas, and for that it would be worth it, but its main function seems to be to save face rather than to assist Indigenous people.

I hope that the opposition do think about what has happened as a result of their pre-election policy-on-the-run statements and about the lives that are going to be affected by the consequences. I have heard what has been said and I hope that rings true in terms of what they hope to achieve in conjunction with the government. But the reality is that we should not be here today and we should not be debating this bill. Quite frankly, we should never have given an opportunity to the government to move swiftly to deal with this particular issue.

Having said that, I want to address the substance of what the government is doing and has been doing to Indigenous people for the last nine years. As the majority report of the Senate Select Committee on the Administration of Indigenous Affairs made clear,
and as the supplementary report further emphasised, the Howard government has already caused significant harm to Indigenous Australians through its regressive policies since 1996. Right from the very start there was the immediate funding cut of some $460 million to ATSIC, the attack on native title rights in 1998, the refusal to apologise to the stolen generations and now the abolition of the national Indigenous voice and the regional networks, to name a few significant milestones in this government’s relationship with Indigenous people.

I think the committee’s report is pretty much unambiguous in its condemnation of the Howard government and its failed practical reconciliation agenda, but it appears that to the government this report is just another in the long line of reports telling it exactly the same thing—another report to be ignored. As we say in our supplementary report, the government’s rhetoric in recent times regarding these so-called new arrangements has been at best illusory and at worst nothing short of deceitful, because the disingenuous repetition of the phrases about ‘bottom up’ and ‘community control’ cannot change the reality of the policy. That is, that it is top down, it is paternalistic and it is essentially just a veiled—very thinly veiled—policy of assimilation.

With all the rhetoric about giving control back to the communities, people could be forgiven for thinking that this government believes in self-determination for Indigenous people and that Indigenous people should have control over their own future. Let us not forget that this government believes in assimilation. It has stated time and time again that it does not support self-determination for Indigenous people. It feels no shame in stating that at the UN Working Group on the Draft Declaration on the Rights of the World’s Indigenous Peoples, and it is hard to believe that in this place and at this time it will not admit it outright as part of this debate. Why insist on the facade that the new arrangements are about Indigenous control? All the pretence achieves is an obstruction of real debate on these issues.

When you look at the government’s response to the Council for Reconciliation final report in 2000, you see that the then minister for Indigenous affairs wrote that the government:

… unequivocally supports the principle of Indigenous people having opportunities to exercise control over aspects of their affairs (as reflected in the establishment and operation of ATSIC …

If ATSIC is the government’s example of Indigenous people having control over aspects of their affairs, and if the government is abolishing ATSIC and not replacing it, isn’t this an admission from the government that it is in fact not in favour of Indigenous people having any control whatsoever? Indeed, the conclusion would seem consistent with a raft of other mainstreaming actions that have been taken in recent times by this government. The tendering of Aboriginal legal services is another example.

One of the most significant aspects of the process surrounding the abolition of ATSIC has been this unending series of government misrepresentations about ATSIC and about the process of abolition that is used to justify this unilateral decision. The truth is that there has not been any consultation with Indigenous people. Consultation is not what happens after the fact to try and legitimise a decision based on the personal ideology of the Prime Minister. Consultation is something that happens before a decision is taken. Minister Vanstone, the Minister for Immigration and Multicultural and Indigenous Affairs, is calling this a quiet revolution. It is not quiet because we are all coming around to the government’s agenda; it is quiet because this
government is silencing the many critics and crafting the debate.

It is about much more than consultation, because the agenda of this government began well before the troubles of ATSIC and it runs far deeper than just getting rid of ATSIC itself—so much so that the tone of government statements about Indigenous affairs has always been high-minded but rarely connected to any factual base of truth. The problems that beset ATSIC provided a window of opportunity for this government to move swiftly, and it did just that. I want to reiterate what Mick Dodson said in the committee hearings: ‘Indigenous people have again been spoken about and dealt with as though we were invisible. Not only have Indigenous people been treated as though we were invisible, we have actually been ignored when we speak up. Indigenous people have been shouting loud and clear. We want a national elected body.’

That is what the years of consultation found prior to ATSIC’s establishment. This is what the $1.4 million government commissioned ATSIC review found in 2003. This is what the select committee found from the evidence. This is what I heard from listening to Indigenous witnesses at the hearing and this is what Indigenous people are telling me, as the only Aboriginal person in this place, every day.

The abolition of ATSIC has been in this government’s sights since day one. The Prime Minister opposed ATSIC in opposition. He immediately stripped ATSIC of funds on being elected, did everything possible to make the job impossible, demonised the ATSIC board members, contributed to a mix of monumental failures of his own government departments and then shifted 100 per cent of the blame to ATSIC, while perpetuating the stereotype that blackfellas are devious and cannot manage their own money and while dividing Australia along race lines. This is not an exaggeration. I have permanently etched in my mind the television picture of the Prime Minister holding up the map of Australia with 70 per cent blacked out, telling Australians that Aboriginal people were going to take their backyards. What an absolute load of nonsense!

The real policy being served is that this government will stop at nothing to push through with its ideological agenda. It is all about an ‘us and them’ mentality for this government. It is that ‘us and them’ mentality—which the government encourages in the Australian psyche—which fuels the misrepresentations about ATSIC so that everyone out there in the Australian community believes that Aboriginal people are to blame.

The Senate Select Committee on the Administration of Aboriginal Affairs itself found that ATSIC was not the failure that this government would have us believe. In fact, it found that ATSIC was extremely successful, given the hurdles that it was up against. ATSIC was way more than the chairperson or the deputy chair. It was a successful network of regional councils across this country, which seems to be lost on this government and the members on that side of the chamber.

I would encourage everyone to read the committee’s majority report for an outline of all of ATSIC’s successes, including extremely effective international advocacy, as well as the excellent administration of the Community Development Employment Program and the Community Housing and Infrastructure Program. Despite a chronic lack of resources and recognition, the regional councils are still, as we speak, being fair minded and decent. They are subsidising the government neglect by trying to cushion the blow for their communities. They are working hand in hand with the new Indigenous coordination centres that have been created.

This government has had the nerve to ask
these dedicated, passionate people to figure out how their own structure can be abolished and how the government will then talk to Indigenous people.

The committee heard evidence which confirmed what my office was already well aware of: the administration of Indigenous affairs in this country is in total disarray. Chaos reigns as the Minister for Immigration and Multicultural and Indigenous Affairs and senior public servants struggle to explain what they mean by ‘mutual obligation’ and cannot explain or produce a single piece of documentation outlining what shared responsibility agreements are, let alone how they are enforced, how they are to produce outcomes or how they are to measure any of the outcomes that might be there.

It is hard to explain just how saddening it is to sit and listen to senior public servant after senior public servant—those now in charge of running Indigenous affairs—repeating the same old, well-worn government catchphrases: ‘shared responsibility’, ‘mutual obligation’, ‘no school, no pool’, ‘This is empowering communities’, ‘I wouldn’t want to second-guess what communities want,’ and ‘The community is talking to us; we’re just listening.’ When the poster child for the government’s new arrangements is an exchange of petrol bowsers for face washing—an agreement which has not even been signed yet—I cannot believe that there has been much thought put into this at all.

The linchpin of this so-called revolution in Indigenous affairs—the SRAs— is the biggest disaster of them all. They are completely ad hoc, there are no benchmarks, there are no targets. How will these agreements—which are different every time you talk about them—result in improvements to the lives of Indigenous people across the country? The government cannot even confirm if they are legally enforceable contracts and who the parties are. The inconsistencies are glaring. How can the government, on the one hand, make agreements with Indigenous representatives and yet, on the other hand, refuse to recognise representatives for any other purposes—for example, advocacy for Indigenous rights?

The committee also heard that there is a real potential that SRAs are in breach of international human rights law. The government members tried to suggest that perhaps we should seek to change international human rights law, if that is the case. I emphatically reject that as the most insane and destructive suggestion of the committee. If SRAs are seen by the international community to be racially discriminatory then this government should change its policy, not the other way around.

SRAs are about securing a group of people to blame when things go wrong, not about improving things. That seems to be how the government pushes them. After the government has given petrol bowsers to Mulan, what happens then? Has the Commonwealth discharged its obligations regarding trachoma? The community is left to deal with the reality of the situation and is left with the blame if things do not improve. So there is nothing mutual at all about these obligations.

Another reflection of the government’s poorly thought through ‘policy on the run’ is the apparent basis of these SRAs and regional agreements: the COAG trials. The COAG trials have not even finished. They are not being evaluated in any process. It seems that there have been some failures and some successes. I have spoken many times in this chamber about Murdi Paaki in my home state of New South Wales and its success story. But its success story is not because of a shared responsibility agreement; rather, the
ATSIC regional council worked themselves into the ground for the last few years to make that happen. They did that themselves; they did not need to be told by the government. Of course, the government conveniently re-branded it and called it a shared responsibility agreement and took the credit. I wonder what will happen to the success stories of regional councils across the country when regional councils are gone on 30 June.

Meanwhile, while the Prime Minister and the minister reinterpret the definition of ‘shared responsibility agreements’ every week and reinvent the meaning of ‘community control’ for each media story that comes out, Indigenous people suffer. While this government works out what it is doing, people’s lives are being affected. One of the most disturbing things about the current state of affairs is the hack job that has been done on the administration of previous ATSIC and ATSIS programs. This, on top of what can only be seen as an ‘asset grab’, leaves me without much hope for the brave new world of Indigenous affairs. The government says it is about giving power back to communities. But the reality is that it is about reneging on legitimate ATSIC decisions made before ATSIC was disbanded or which were in process at the time.

I have spoken on many occasions about the issue of the MiiMi Mothers Aboriginal Corporation and why there is a need to resolve that, and I will not repeat it again on this occasion. If the government is so determined to look at people making their decisions locally, why does it keep ranting and raving about the violence experienced by Indigenous women and children and do nothing to help a mothers group that wants to do something within its community that has youth leadership and antiviolence programs in place? They are the sorts of people we ought to be helping.

Another example is that the Indigenous Consumer Assistance Network has given the ATSIS legal team in Canberra— that is, the government department—a submission for the proper release of remaining funds in the ATSI Cultural Education and Advancement Trust of about $400,000. ATSIC are the trustees of this fund. They made their decision. It is unable to be now signed off on because Minister Vanstone has issued directions requiring 30 days notice. They are worried that they are now going to lose those funds when ATSIC is abolished. The money was designated well before we started this debate. It is not part of a pool of funding. It should not be the government’s choice just because a signature is required. The remaining funds should be allocated as they were first intended.

This is the kind of thing that is happening right across the country. Successful programs are at risk because the government does not like two particular people on the ATSIC board. The Democrats will be moving a number of amendments to try to address the administrative nightmare that has unfolded. We are trying to salvage some of the quality agencies and programs from being destroyed along with ATSIC by the government’s uninformed meddling. An example is Indigenous Business Australia. People may not know that the changes will result in the minister now having control over all of IBA’s functions, just because they are taking on programs previously held by ATSIC. I think this jeopardises the success of the organisation. They have not been in the media. They have been successful and have been getting results, and now the minister takes control. We are also going to move a second reading amendment jointly with the ALP which my colleague Senator Carr spoke about. We are united in this and I think we believe in what these words say. In many ways, this is the point at which we have arrived.
I also want to reflect on some words that were given to me earlier this week by an Aboriginal woman who came over to visit from the Ninga Mia group in Kalgoorlie and the Goldfields area. I sat down with her and her group, who, by the way, drove in a bus all the way from Kalgoorlie to Canberra. I think they are camped down in the park because they do not have any money to stay in motels. They are so passionate about this particular issue that they have come along to speak to all sides of politics to make sure that they get a chance to be listened to and that this debate is aired properly. One of the women there was Auntie Phyllis, an elder. I noticed her words. She wrote a note and handed it to me. It said:

When the first white man came to Australia, we had the land and he had the Bible. He asked us to pray, so we closed our eyes. When we opened our eyes, he had the land and we had the Bible.

In this respect, when we think about what we are dealing with here, it is much more than just the question of whether ATSIC as an institution is being abolished. It is the question of prevailing attitudes and a direct attack on Indigenous programs right across the country.

I spoke earlier in the week about the question of Redfern. No-one seemed to notice that. I was surprised yet again that it was not even reported in the media. No-one wants to hear about these things or that one group of people can be singled out for different treatment from the rest of the country. That is exactly what we are doing here in respect of the abolition of ATSIC. I would hope that on the government side of the chamber they would open their eyes and see the real truth of what is going on. We are not dealing with ATSIC in isolation of a larger agenda. There is a new moral agenda being put forward by this government. It has no factual basis. The reality is that the only people who suffer are Indigenous people.

I think we have to do more than just turn around and debate the issue of whether ATSIC ought to be abolished. We spent $1.4 million and we went out there and asked people what their views were. They told us loud and clear. The government are not listening to those views. In other words, I think they are playing wedge politics to drive this colour line between black and white in this country. I have been appalled not by what is being said but by what is not being said by the Prime Minister in showing leadership about harmony within our community. I am appalled that somehow, when young people die within our communities, whether it is in Redfern or Palm Island—or even when two young men have nooses put around their necks and are dragged behind a four-wheel-drive across a river bed in northern New South Wales on the border with Queensland—no-one steps up to say anything.

Why is it that, in this country, we have become so conditioned to not talking out in favour of those who are oppressed? Of course it does not garner broad community support, but it is not right. It is immoral, indecent and unjust. The ATSIC bill is a further part of the program that the government have put in place to perpetuate this prevailing attitude that now takes over the country. I hope that they show the right leadership and do not perpetuate what is wrong. I know that Senator Scullion is passionate about these issues in the Northern Territory. Sometimes I think they are very misguided in the way they deal with things. But the law has to apply equally. The lady of justice statue has a blindfold on for a reason—so that she cannot see the colour of a person’s skin. But in this country we take the blindfold off and allow her to see things differently. That is what has to stop. (Time expired)

Senator Nettle (New South Wales) (11.57 a.m.)—The government’s proposal to abolish the national Indigenous representa-
tive body, the Aboriginal and Torres Strait Islander Commission or ATSIC, is unsupportable. The government has failed to genuinely consult those people affected by the proposal—that is, Indigenous Australians. The government has failed to propose a suitable alternative to ATSIC. We acknowledge that there are varying views within the Indigenous community about ATSIC, but there is widespread support throughout Indigenous Australia for a national representative body chosen by Indigenous communities. Yet the government has failed to hear this call. The government has failed to adequately explain how its new model will operate, nor has it committed the funds to new representative bodies at a national, regional or community level.

There can be no genuine participation for Indigenous Australians without government commitment to representation. Given the relative disadvantage of Indigenous communities, a commitment to fund such bodies is required. The government will take the assets of ATSIC and regional councils but has pledged nothing for the new representative bodies. Government-selected advisory panels are no substitute for the representative voice of Indigenous people and their direct participation in the affairs of government that affect them. Effectively muted, particularly at a national level, Indigenous Australians will be relegated to the sidelines of decision making about their lives and future. The deeply-rooted disadvantage that Indigenous Australians endure and the rights, both morally and in international law, of redressing this disadvantage and ensuring the survival and flourishing of Indigenous culture demand genuine commitment to self-determination.

The government’s proposals on representation and the mainstreaming of service delivery fall a long way short. They ignore the lessons from nations that have had more success with self-determination. For all of these reasons, the Australian Greens reject the unilateral abolition of Indigenous Australia’s national representative body and we will be opposing the Aboriginal and Torres Strait Islander Commission Amendment Bill 2004 [2005]. The government announced its decision to abolish ATSIC in April of last year. It then pre-empted parliamentary debate and scrutiny by implementing all of the changes that it possibly could via regulation, presenting this parliament with a fait accompli.

The government ignored the ATSIC review that was commissioned in 2002 and reported in 2003. This review, as others have mentioned, involved extensive consultation. It put forward four possible options for restructuring ATSIC, and none of them included abolition. Little wonder that Indigenous people are highly critical of the lack of consultation about the abolition of ATSIC. The very first witnesses who appeared before the select committee that inquired into this bill—a group of women from the Yuendumu Women’s Centre at the Alice Springs hearing—had not heard before they came before the committee about the government’s proposals to abolish ATSIC and its regional council. So much for consultation.

The ATSIC bill not only abolishes the national Indigenous representative body and the regional councils, and all the work they do with communities and advancing the interests of Indigenous people; it also removes requirements for Indigenous input in important forums and processes. It removes the requirement to consult Indigenous organisations on proposals that could harm Indigenous heritage through the Environment Protection and Biodiversity Conservation Act. It also removes the requirement for the Aboriginal and Torres Strait Islander Social Justice Commissioner from HREOC to consult Indigenous bodies about the human rights of Indigenous Australians. It also removes Indigenous representation from the board of
the National Health and Medical Research Council. The government says that it will negotiate with Indigenous communities directly, but it has not yet explained exactly who it will negotiate with and nor has it made any commitment to fund any new bodies or to guarantee that they will be representative.

Part of the government’s plan for delivering services and improving coordination across government agencies is to co-locate staff from different agencies in Indigenous coordination centres, ICCs. The government regards them as pivotal, but there is massive confusion about what their role and function is and how much authority they will have to make decisions. The committee heard evidence about the difficulties for ICCs in creating a cohesive and common vision, because each of the lead agencies represented within the ICC has a different purpose, a different function, different reporting outcomes and different performance targets. These difficulties are exacerbated because staff from different departments are being paid different wages, working under different conditions, and answering to different ministers and performance requirements. Witnesses spoke about the difficulties that the new managers of ICCs were having both in learning about the communities they were going to be advocates for and work with as well as in learning to find their way through the maze of government departments and Indigenous-specific or other relevant programs.

Another difficulty for the operation of ICCs is the level of delegated authority that ICC managers are given. It seems they may not have the authority to deliver the programs in a way that the local community best needs. The manager of the CDEP program in Moree commented to the committee about the way in which the ICC is not able or empowered to make the local decisions that former ATSIC officers were able to make. The government contends that ICCs are not to be direct service delivery shopfronts, but certainly a different impression was given to the select committee. It concerns me, in looking through the evidence of the public hearings, that on nine separate occasions senators—and predominately government senators—referred to the ICCs, and explained them to the witnesses who appeared before the committees, as ‘one-stop shops’. Yet, in its reporting, the government says, ‘This is not the intention.’ If government senators on a committee looking into the administration of Indigenous affairs get an entirely different view than that of the government about the way the government is proposing that this central body will implement its new changes, how does one expect Indigenous communities to be able to understand what is being proposed by the government?

At the heart of the ICCs is a policy to mainstream the delivery of services to Indigenous communities. It is worth remembering and consistently restating that ATSIC never had full responsibility for delivering services to Indigenous people and communities, but it has always been blamed for the failures of other agencies and government departments. The deeply entrenched disadvantage that Indigenous people endure that manifests itself in poverty, discrimination, overcrowded housing, poor health and low participation in education and training all point to a systemic, long-term failure on the part of government and the implementation of government programs. To imagine that a body such as ATSIC could or should ever be responsible for redressing these historic failures on the part of the government was always plainly ridiculous.

The 2003 review of ATSIC rejected mainstreaming as an option, and international experience shows us time and time again that the best outcomes for Indigenous people oc-
cur when they exercise control over the decisions that affect their lives and when they do so through culturally appropriate institutions. Australia’s Indigenous population lags well behind on key indicators of social and economic wellbeing when compared with the indigenous populations of comparable countries such as New Zealand, Canada and the United States, which have more of a commitment to self-determination than we see from this government. The government needs to acknowledge the failure of mainstreaming and commit to the genuine process that here and overseas is allowing Indigenous people, as the primary decision makers for decisions that affect their lives, to have service delivery occur in a way which is delivering far better outcomes.

The concept of shared responsibility agreements as a way of delivering better results is also flawed. Yet these agreements, like the ICCs, are central to the government’s new policy of delivering services to Indigenous people. The Australian Greens are deeply concerned about the concept of these agreements, what they might entail and the consequences for communities and individuals of entering into them. We note the statement by the Aboriginal and Torres Strait Islander Social Justice Commissioner, Tom Calma, which he made in November 2004. He said:

It would be unacceptable for Indigenous peoples to be denied basic citizenship services that all other Australians—

and expect from their governments. These agreements have about them a tenor of paternalism, which has no place in the administration of Indigenous affairs in this nation or anywhere else.

The government’s record on Indigenous affairs gives us no grounds for optimism. The government has failed on the essential issue of reconciliation—abandoning any idea of the genuine process of healing to smooth the path ahead for Indigenous and non-Indigenous Australians. The government has failed to show the compassion or the action needed to the sorry legacy of the stolen generations. The government has never been comfortable with a representative national Indigenous body that is prepared to be outspoken, to stand up for its constituents and to take the government head on, both at home and in the international community.

The government has been gunning for ATSIC since it took office. The government sent the auditors through time and time again at the same time it was cutting ATSIC’s budget by around 11 per cent. Soon after coming into office, the government reduced the amount of money that was available for
training courses to improve management skills for Indigenous administrators at the same time as these audits were being carried out.

The government imposed restrictions on how ATSIC could spend much of its funding, causing the closure of important programs. Funding for women’s resource centres, like the one run by the women of Yuendumu in Central Australia, was cut back. They were our first witnesses and they did not even know that ATSIC or regional councils were being abolished. The women from Yuendumu who gave evidence to the select committee in Alice Springs last year told of the work they were trying to do to keep children and young people out of harm. They were mediating family disputes, helping women keep in contact with their families, assisting people with Centrelink matters and running programs to promote better health for families, babies and their mothers. These are the sorts of practical social programs that suffered and had their funding removed when the budget of ATSIC was cut by 11 per cent soon after the government came into effect.

The statistics for Aboriginal disadvantage are appalling every time we hear them, but even put together they do not tell the full story of the disadvantage that Indigenous Australians face in this country. It is worth reminding ourselves of them. Twice as many Indigenous babies are born with lower weight than non-Indigenous babies. There are 2.5 times as many deaths among Indigenous infants than non-Indigenous infants in Australia. In 2001 the mean or average gross household income for Indigenous people was $364 per week, compared with $585 a week for non-Indigenous Australians. This puts almost one in three, or 72 per cent, of Indigenous people in the lowest or second lowest income quintiles—that is, the poorest Australians. Life expectancy for Indigenous people is almost 20 years lower than for non-Indigenous people and it is lower than life expectancy in some of the poorest nations on earth—places like India, sub-Saharan Africa, Burma, Papua New Guinea and Cambodia.

High school retention rates are lower for Indigenous Australians than for non-Indigenous Australians. Whilst almost one in four non-Indigenous people aged between 18 and 24 years are attending university, just one in 20 Indigenous people in this age group are studying at university. Just over half of Indigenous people of work force age are employed, 54 per cent, compared with almost three-quarters, 73 per cent, of non-Indigenous people. Indigenous Australians are often unable to access education and training. They face discrimination and they face difficulties, particularly if they are required to move from their communities and land in order to take up paid work. Some of the more pressing cultural priorities keep them tied to their country. Many Indigenous Australians work in the Community Development Employment Projects, the CDEP scheme, which, while it has provided benefits to communities and been administered by ATSIC, is not the equivalent of doing general paid work in the community.

More than a decade after the report of the Royal Commission into Aboriginal Deaths in Custody, Indigenous people continue to be incarcerated at high rates—16 times the rate of non-Indigenous people—at rates higher than when the commission reported in 1991. Young Indigenous people constitute around 42 per cent of all juveniles incarcerated, although they account for just four per cent of the total juvenile population. Former Aboriginal and Torres Strait Islander Social Justice Commissioner Dr Bill Jonas said the census figures showed that progress was minimal and it was difficult to see any progressive trend towards reducing the extent of inequality that Indigenous Australians experienced compared with non-Indigenous
Australians. He went on to say in his 2003 report:

... there is not sufficient commitment by governments at any level to do whatever it takes to progressively improve the life chances and opportunities for Indigenous people ... we are not progressing as well as we can or as well as we need to. This needs to change …

The Greens agree wholeheartedly. Though governments are doing too little, many Indigenous communities and their leaders are driving change, and ATSIC has been involved in some of these most important developments. Where Indigenous people are given the support they need and the time, space and capacity to do it in their own way and make decisions for their own lives they are achieving tremendous feats.

The needs of Indigenous Australians are different from those of non-Indigenous Australians. There are different needs for Indigenous Australians living in the city, regions and rural areas and for those who live a largely traditional lifestyle in remote parts of this country. Non-Indigenous Australians need to recognise this and support Indigenous communities to establish their own organisations, to advocate on their own behalf, to speak, to be listened to and to have their recommendations acted upon. Hundreds of thousands of non-Indigenous Australians across the country are doing just that. They reject this government’s neglect of Indigenous affairs and its attacks on Indigenous Australia’s representative bodies. They are working in local communities to forge constructive relationships. If only the Howard government could muster the same understanding and the same genuine commitment to self-determination, we would set ourselves on a path on which we could turn around and address the tremendous statistics of disadvantage that Indigenous Australians currently face.

I indicate that I will not be moving the previously circulated second reading amendment from the Greens, because we are supporting the amendment that Senator Carr has moved. We are doing this with Senator Ridgeway.

Senator SCULLION (Northern Territory) (12.14 p.m.)—I would like to thank those opposite for their contribution, particularly Senator Ridgeway. He has made a wonderful contribution to Indigenous leadership in Australia. The irony is not lost on me that he came to this place through the mainstream process. I must say that I am completely miffed by the Labor Party’s contribution this morning and a little confused. Perhaps that is because the spokesman is a little out of touch with Indigenous affairs. I am not sure. I know his appointment to the position is only recent. Over eight years there have been eight separate spokespeople from the Labor Party on this particular issue. I think it was back in 2000 that it was reported that, when you were scurrying around looking for somebody else to possibly put their hand up for the position of spokesperson for Indigenous affairs, an unnamed member of parliament from the Left faction was heard to say that being given the position of spokesperson for Indigenous affairs would be like getting the job of toilet cleaner on the Titanic.

Senator Stephens—That is disgusting!

Senator SCULLION—Exactly. I agree with you. It is a disgusting approach to Indigenous affairs. It is a very, very important issue. In my career in politics, you would totally aspire to provide leadership to the very important first people of Australia. I will just quote from the minority view:

ATSIC is no longer capable of addressing endemic problems in Indigenous communities. It has lost the confidence of much of its own constituency and the wider community.
That quote does not come from government members. It is a quote from the former Leader of the Labor Party—a bloke who, for the very first time, stood up and made some sense. Of course, he is from the Right. He actually made some sense. He said that the first Australians deserved some reform, deserved some change, and that the Labor Party would stand by that change and abolish ATSIC. The government brought forward the Aboriginal and Torres Strait Islander Commission Amendment Bill 2004 [2005] that we are looking at today. It is quite a simple thing. Now the opposition are resiling from it. I have just been listening to the spokesman for Indigenous affairs on the other side, who basically told us that there is nothing wrong with ATSIC, it is all fine with ATSIC and the government has got it wrong. I cannot really believe that they are so far out of step on this issue.

The government are fair dinkum. We are fair dinkum about reducing Indigenous disadvantage. We have spent $2.9 billion on Indigenous specific programs. That is a 39 per cent increase in real terms, and that is getting fair dinkum about this. But it is not only about the money; it is about looking at the outcomes. I have always been very keen to look at the outcomes. Senator Nettle was talking about the area of disadvantage. There is still a gap—we are not in denial about that—but the gap is closing. Infant mortality and death rates from respiratory illness have gone down. More remote communities have access to sewerage, electricity and water. More Indigenous are people working. Unemployment rates are down and employment participation rates are up. The number of students staying on to year 12 has doubled. More are going to university. The number who have got tertiary qualifications has more than doubled over the last 10 years. New Apprenticeships and TAFE attendees have almost doubled since 1996. Housing over-crowding rates have declined since 1996. The number of houses included under the Community Housing and Infrastructure Program has doubled since 1996. There has been a doubling of money provided in loans through the Home Ownership Program.

It is still not good enough; I accept that. Indigenous Australians want better results and they deserve better results. But the Howard government are absolutely determined. We are not going to work within the same flawed framework that has been designed by Labor. That is why we are going to abolish ATSIC and introduce some radical, fair dinkum changes and fair dinkum reforms. We have actually had support for that. The member for Fraser said that Indigenous Australians may be attached to ATSIC but that there is very little adverse reaction to its abolition. I was part of the committee that looked at the abolition of ATSIC. We went out there and found that, in absolute droves, Indigenous Australia was totally disinterested in what happened to ATSIC.

We have been accused of not really consulting. Consulting is something you do when you really are not fair dinkum about making a change. You say, ‘We’ll consult more.’ The second thing you do, of course, is have new committees. Consulting is a big time thing for the Labor Party. I would remind them that there were two major rounds of consultation, 8,000 copies of a discussion paper were mailed out to specific individuals who showed interest and a web site was set up. All 35 of the ATSIC regional councils were consulted. They talked to their stakeholders and they gave evidence. The committee received 156 written submissions. To say that there has not been wide consultation is absolute rubbish. Those consultations revealed widespread disillusionment and dissatisfaction with ATSIC on the part of Indigenous Australians full stop. I think that if Mark Latham had not had the courage to act
Labor would have done the normal thing—nothing. We think that nothing will happen if you do nothing, but nothing has a consequence. The same levels of disillusionment and disadvantage for Indigenous people will occur. We need to thank Mark Latham for that contribution. He had the guts and the courage to stand up for what is right.

The opposition have spoken at length about mainstreaming. They have said that we all support assimilation and that we are returning to the past. They tell us that the mainstream departments have failed Indigenous people. It does not take more than a casual glance at history to show that Indigenous Australians had their programs changed by the Labor Party. They said, ‘Clearly, ATSIC is not delivering properly. Let’s change it. We’ll mainstream the delivery of health.’ That was a sensible proposition at the time. I had to heartily agree with them at the time. But you have to do the job properly. What about all the other programs left hanging around that were suffering from the same lack of leadership and administrative skills in delivery that the health programs were? You cannot do half a job. You have to be fair dinkum about it.

There are members of the Labor Party who are fair dinkum. I have to congratulate the Clare Martin Labor government in the Northern Territory, who are fair dinkum about working with our government and about mainstreaming the management of their programs. All the states and territories do, and in general they support what we propose. It seems that only those opposite are still in never-never land and persist in doing the same thing and expecting a different outcome.

Whole-of-government leadership and coordination is the key feature of our approach. That framework is going to be headed by a ministerial task force chaired by none other than the Minister for Immigration and Multicultural and Indigenous Affairs herself. That will ensure that we have complementary and consistent policy. Under that framework the secretaries of the departments are going to be responsible for Indigenous specific services. When I say responsible, I mean not just overseeing but being held accountable and responsible. When they appear at estimates hearings we can all beat them up and find out exactly what is happening to the outcomes. It will be the first time that the bureaucrats in the departments have been made totally and directly accountable to the Australian people for the outcomes for Indigenous Australia. All government agencies will be responsible for 100 per cent of all Australians 100 per cent of the time.

In the majority report there are certainly some issues and concerns about the assets of ATSIC. Some evidence was given to us that somehow the assets of ATSIC are not going to be used in a way that benefits Indigenous Australia. I want to assure the House that the housing fund, with the majority of the housing and business loans, is going to IBA—Indigenous Business Australia. I have to commend them on the wonderful work they have done in the past. I have a very high level of confidence that that is the very best place to put these programs and funds. The Regional Land Fund—ATSIC holdings—is going to the Indigenous Land Corporation. They have done a fantastic job in the past and I am sure they will really look after the funds for Indigenous Australia.

We have heard a lot from the other side about elected representation at the national level. Unsurprisingly, we are not going to replace ATSIC. People have talked about the United States and Canada. I think they are useful examples. Neither country has elected bodies that are somehow reflected in regulation or legislation. It certainly works, and the argument does not follow that they somehow
need to be connected to some regulatory process. That is actually about self-determination and self-management: allowing Indigenous people to develop and establish their own representative bodies that they have ownership of, that are doing what they understand and that know their own people and their own issues.

Labor says our reforms go beyond the abolition of ATSIC, and they probably should go on to say that they are actually doing something practical. I can tell you what Labor is intending to do: pretty much nothing. Indigenous people have every right to be concerned about what they are going to do. Labor is going to abolish ATSIC and replace it with more of the same. We will have one nationally elected board. Surprise! That is a big change, mate. We are going to make it another nationally elected board. What a surprise. What a radical change. That will really improve the lot of Indigenous Australia. ATSIS will be turned into a commission—a bit of renaming. Regional councils will continue. It does not matter what people want to do at the local level. There will be 35 ATSICS—it is another Mini-Me. It is not good enough for Labor to pretend to the Australian public that they intend to abolish ATSIC. You have to have the guts. You have to have the same guts that Mark Latham had and say, ‘They deserve more. This isn’t good enough.’

This bill will make major changes to the Australian government’s institutional structures in Indigenous affairs and improve the lives of Indigenous Australians. We are providing better arrangements for involving Indigenous people at national and local levels in the determination of priorities and policies relating to issues that they have identified that actually affect them. The opposition talks about models of empowerment. Some people might consider that is a fact, but it disempowers the vast majority of Indigenous Australians who do not get those very few golden hats. There is an opportunity for those people opposite to do the right thing, be fair dinkum about this for Indigenous Australians and support this bill in its unamended form.

Senator CROSSIN (Northern Territory) (12.25 p.m.)—I have to say at the outset that I am disappointed with my colleague from the Northern Territory not being able to take up his full time in debating in this place such a monumental bill in the turn of history of Indigenous people. The Aboriginal and Torres Strait Islander Commission Amendment Bill 2004 [2005], as we know, formally abolishes ATSIC, but it further dampens the aspirations of Indigenous people in this country. In fact, it goes much further than that. The Howard government has never believed in our Indigenous Australians having a real say in decisions about their future, and this bill goes on to dismantle every means available to Indigenous people to have any say in such decisions. This is not to say that the Labor Party saw ATSIC as worthy of keeping—certainly not in the form it had become. For reasons outlined in March 2004, Labor believed that, as constituted, ATSIC did not have the capacity to work effectively for Indigenous Australians. However, unlike this government, we believe that Indigenous people must have an elected voice—a representative voice that is chosen by them.

From July 2005 or, in fact, from the passage of this bill, there will be no Indigenous voice in this country that is truly representative of Indigenous people. Coincidentally, from 1 July there will be no Indigenous representatives in this parliament and very few in state or territory parliaments outside of the Northern Territory. Also, if the Howard government gets its way, there will be no form of truly representative collective voice for Indigenous people anywhere in this country, other than through the Torres Strait Regional Authority.
In a statement to the Senate Select Committee on the Administration of Indigenous Affairs, Jackie Huggins said:

I would particularly like to direct the committee’s attention to the... critical importance of a nationally elected representative voice.

... not one that is driven by non-Indigenous political manoeuvring.

She went on to tell of the success of the meeting of Indigenous leaders in Adelaide in June 2004. She said:

The 200 voices we heard in Adelaide, and the many more since, were united in the desire for a legitimate, Indigenous designed and owned national representative voice...

She went on to say:

We the Indigenous people of Australia and we alone have the right to determine who represents us locally, regionally, nationally & internationally.

It is pointless wasting time debating the faults of or criticising ATSIC, but for all its faults I personally believe, and have witnessed first-hand, that ATSIC had many more achievements. Will Sanders, in the Journal of Indigenous Issues, wrote:

... over its 14 year history, ATSIC has indeed achieved much and displayed considerable strengths...

He went on to enumerate these strengths: political participation of Indigenous people; a national Indigenous voice increasingly independent of government; distinct appropriate programs; regionalism, working with states and territories; and, lastly, the distinctive Torres Strait arrangements. ATSIC was initially criticised as being just another government department, but in the end it became much more than that; it became a voice which would speak against government for Indigenous people. It had to do so in order to achieve legitimacy among its constituents.

As has previously been pointed out, the original bill was first introduced on 27 May 2004—the anniversary of the 1967 referendum. When the Prime Minister announced the intention to abolish ATSIC, a former ATSIC chairperson—a senior traditional man from East Arnhem who is no longer with us—said:

... one of the most disappointing aspects of Mr Howard’s decision was the manner in which it was made and the language with which it was delivered.

In the classic imperial fashion, without negotiation, without understanding and with little empathy, the great white leader announced that Aboriginal people had, yet again been a ‘failure’.

On making his announcement, the Prime Minister said that the government’s goals were to improve outcomes in health, education and employment. But these programs had for years been out of the hands of ATSIC and had been mainstreamed in other government departments. So who is really to blame here?

This government’s failure to achieve outcomes for Indigenous Australians was also shown in the HREOC report for 2003. The commission showed up the lack of outcomes—and every year the commission’s report shows that. The failure of this government to close the gap of disadvantage faced by Indigenous people in those key areas is highlighted time and time again.

Mainstreaming has not worked. But, typical of their obsession with the concept of assimilation and their rhetoric and approach of blaming the victim, the Howard government has gone back to mainstreaming to try and justify the current approach, which will force Indigenous people down a path they clearly do not want to go. The government thinks that with a few more bureaucratic government committees thrown in to monitor things it will work this time.

ATSIC may not have been perfect, but, as I said, it had achievements under its belt. It had more strengths than weaknesses, as was
highlighted in the report by the select committee. It is this government that has failed Indigenous people, not ATSIC. However, the Prime Minister has not criticised his ministers for education or health or employment. He has taken the easy way out and blamed ATSIC and Indigenous people once again. He has blamed the victims. Now he is doing even more to take away any voice they had in decisions vital to their future. In doing so, the Prime Minister and his government are ignoring Indigenous people. They are ignoring the review of ATSIC, which was costed at around $1½ million dollars. They are insisting on mainstreaming all Indigenous programs. It will only be a matter of time before these discrete programs will disappear.

This is a Prime Minister and a government which do not seem able to accept or understand that Indigenous people are different. This is a Prime Minister who rarely visits Indigenous people. When he does, he must keep his ears and eyes shut tight for he rarely seems to hear or see anything they tell or show him. I have to say that on Senate committees I have been on with senators from the government side I sometimes feel I may as well sail along a cardboard cut-out, because they obviously do not listen to the things that are being said to other senators on the committees. I fail to understand how some of my colleagues from the government side can stand up and deliver speeches on this bill today when they do not truly understand what was said to them over 13 days of hearings during the Senate select committee process. You would think, in fact, that they had never been there and had never heard the same words I did.

This is a Prime Minister who is already older than the age most Aboriginal people can expect to live to in this country. This is a Prime Minister who will not say sorry. He believes in practical reconciliation but to date has been unable to see or accept that this is not working. The disadvantage gap between Indigenous and non-Indigenous Australians still looms large.

Furthermore, this bill does not, as I have already indicated, just abolish ATSIC—it goes well beyond that. As it stands, this bill will vest increased powers in the minister—rather than in Indigenous people—with respect to regional council operations for the time they have left, which is until 30 June 2005. This bill provides for the wholesale transfer of ATSIC assets to the Commonwealth, although during the Senate select committee hearings we were never given the precise details about how that would operate. If assets pass to the Commonwealth, they can do with them what they please. For example, the shopping centre in Alice Springs is owned by ATSIC in trust for Indigenous people. We have recently seen how this government will deal with Indigenous people in the treatment of former commissioner Alison Anderson: they raided her Alice Springs office in order to take the Indigenous artworks away from that building.

This bill further proposes major changes in other Indigenous organisations, including the Indigenous Land Corporation and Indigenous Business Australia. It seems entirely possible that both will be expected to take on increased roles and responsibilities but with no additional resources, increased control by the minister and little accountability for Indigenous people, who will not benefit from these proposed changes.

Another significant change will be to the Office of Evaluation and Audit, which will be given a much expanded role to undertake evaluations of all or any Indigenous programs in any department and to investigate individuals and organisations that have received funding under any Indigenous program, with little restriction to its scope.
While accountability of itself is not a concern, this seemingly unfettered scope of the OEA could be.

I want to now turn to some of the opinions offered during the hearings of the Senate Select Committee on the Administration of Indigenous Affairs that I believe highlight the massive crisis in Indigenous affairs that is being created by the government’s actions. The HREOC submission to that committee stated most clearly that the Social Justice Commissioner did not support the passage of this bill. In summary, this was because the bill will operate to disempower Indigenous people and the mainstreaming of services is not accompanied by adequate mechanisms for scrutiny of the government’s performance on Indigenous issues. The abolition of ATSIC will mean the government will have to deal with Indigenous people only on the government’s terms and without reference to Indigenous people’s aspirations.

The HREOC Social justice report 2003 indicated a need not for less Indigenous input and control but for the exact opposite. HREOC went on to say:

Ultimately the Social Justice Commissioner is concerned that abolishing ATSIC will simply silence Indigenous people at the national level while the deeply entrenched crisis in Indigenous communities continues unabated.

In their submission to the committee, the Combined Aboriginal Organisations of Alice Springs said:

... the abolition of ATSIC ... threatens Indigenous representation at the Commonwealth level and deprives regionally based Indigenous organisations of their united voice.

Tangentyere Council in Alice Springs say:

... the provisions of the ATSIC Amendment Bill and the sketchy information on the replacement structure constitutes a denial of the right of Indigenous people to self-determination.

- This is of considerable concern as self-determination needs to be enhanced and strengthened to bring about positive change.
- It is contrary to the recommendations of all the major and authoritative reports conducted into Indigenous Affairs ...

The Aboriginal Legal Rights Movement say:

It is considered that the credibility of the Government is at its lowest when it comes to Indigenous Australians and denying access to justice, self determination and quality of life. On one hand the government is overseas expending millions of dollars bombing a country and installing democracy, whilst at the same time it is denying funding and dismantling democracy for Indigenous Australians ... Australia is returning to the dim dark ages of the 1950s to provide services to Indigenous Australians through a failed mainstream system ... Various Government Inquiries including the Royal Commission into Aboriginal Deaths in Custody and the Grants Commission support service delivery by Indigenous organisations.

They go on to point out that ATSIC will be denied the opportunity to prove itself, that it has been actively discredited by a few individuals and by this government, and it had the potential with the right leadership to improve quality of life for Indigenous people. They say that the ATSIC review showed a way forward but:

The current Government with its misguided ideology has chosen to ignore this comprehensive Review and its recommendations.

I could go on to quote from many other submissions—well over 200 were received by the time the 2004 election was called. I said earlier that this bill goes well beyond the abolition of ATSIC, and it certainly does. Whichever way we view it, whichever way we interpret it, this bill quite clearly takes away the Indigenous voice and ownership over a wide range of areas which greatly affect their lives.

I want to finish by highlighting two stories that were placed at the beginning of the Sen-
ate select committee’s report. These stories were told to us at Gove, in Nhulunbuy, during the inquiry by an Indigenous man, Tony Binalany, who has now become the Chairman of the Northern Land Council. Those people who are listening who understand the way Indigenous people communicate and pass on deep thoughts about what they believe is happening would know that this often takes the form of stories. This story is about the magpie geese and the sea eagles. They wondered why one could not be like the other, why the sea eagles made their nests up at the top and the magpie geese laid their eggs in the weeds in the swamp. They had an argument about who was the best. The story continued:

But, if the eagle was like the magpie goose he would die and if the magpie goose was like the sea eagle he would die, so at the end of the day they agreed that one was a magpie goose and one was a sea eagle, and they both lived happily ever after.

My interpretation of this is that Aboriginal people believe that the government is trying to turn everybody into sea eagles. It fails to recognise that there are other people in this world and that they can coexist on their own terms and under their own conditions and still live harmoniously. Larissa Behrendt, from the University of Technology, Sydney, in her submission to the committee had this to say:

The notion of mutual obligation that has become the latest catchword in Indigenous policy sees the federal government attempting to reward and punish those who do not meet standards of behaviour that the government sets for them. In this form the notion is misnamed as mutual and has no home in the values of Aboriginal culture—traditional, contemporary or romanticised. The notion of reciprocity within Aboriginal communities encompasses the idea that those with resources should share them with those who do not and that those who are the recipients of this generosity have the same duty to provide and share with others.

That embodies the view of Indigenous people. It sits quite comfortably alongside the story that Tony Binalany told us in Gove. It is quite opposite to the way this government sees Indigenous people. It shows us quite clearly that Indigenous people do not believe that this government shares their aspirations, understands them or even wants to listen to them. As the report says, assimilation is far from a benign philosophy. On the contrary, it represents merely one aspect of a view of Indigenous people that is paternalistic and essentially arrogant in its superiority. It is a view that most Australians would find repugnant. Opponents of assimilation—both black and white—do not want to banish Indigenous people to apartheid inspired reservations but recognise that in order to take their rightful place in Australian society Indigenous people’s needs, history, cultures and rights must be accorded recognition and respect. The government’s agenda fails to do this. In so doing, it fails its own Indigenous citizens. For all Australians, that is a matter for shame.

Last Thursday in Alice Springs, with the Senate Employment, Workplace Relations and Education Committee, which is looking at the funding of Indigenous education, amongst a group of Indigenous parents and Indigenous teachers I will always remember one non-Indigenous parent from Ross Park Primary School who stood out in the crowd. She said, ‘Before you go, and before the committee finishes, I just want to place this on the record: when Indigenous people win, it is a win for all of us; when Indigenous kids achieve, it is an achievement we can all celebrate.’ She was quite adamant that no longer should Indigenous issues stay just as that. Indigenous issues are everybody’s issues. There also has to be recognition out there that Indigenous people must have a say in
how they believe this country should control their lives. Indigenous people must be set on a path of self-determination and not assimilation.

I think Alison Anderson is right when she says that history will prove that in 10 years time we will come back into this place and we will re-examine what has happened on this day and we will determine that this was just another experiment on Indigenous people. I believe that in five to 10 years time we will look back and discuss what has gone wrong again. What has gone wrong is that Indigenous people have lost their voice. As of this day they will be categorically ignored by this government, despite this government’s policy and despite the aspirations for their future.

Debate interrupted.

PARLIAMENTARY SERVICE AMENDMENT BILL 2005
Second Reading

Debate resumed from 9 March, on motion by The PRESIDENT:

That this bill be now read a second time.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (12.45 p.m.)—I rise to speak in support of the Parliamentary Service Amendment Bill 2005 and also indicate that, during the committee stage, I will be moving some amendments, which I think have been accepted by the government. Senator Murray will be moving a second reading amendment, which I also intend to support.

The impartial information and analysis provided by the Parliamentary Library is crucial to the effective scrutiny of government and the parliament and to ensuring that the Australian people get the highest quality debate and resulting legislation possible. No-one appreciates that more than opposition senators—and no-one among them appreciates more than me, as Leader of the Opposition in the Senate, how important the role of the Library is to the effectiveness of the opposition. This bill establishes the statutory position of Parliamentary Librarian within the amalgamated Department of Parliamentary Services. It also establishes the functions and reporting structures of the position, as well as setting out how the position and, consequently, the library itself will be resourced.

Labor has proposed amendments that give statutory status to the Parliamentary Library and expand the potential qualifications of the Parliamentary Librarian, which also provide a statutory base for the functions and operations of the Security Management Board. While we support the bill in its creation of a statutory Parliamentary Librarian position, we are seriously concerned about the government’s lack of commitment to ensuring the independence and funding of the library. These concerns have been reinforced by information gained in recent Senate estimates hearings.

In his 2002 report, the Parliamentary Service Commissioner, Mr Podger, recommended the amalgamation of the three departments providing services to the parliament into one single department—what is now the Department of Parliamentary Services. The commissioner’s report made the following four recommendations regarding the Parliamentary Library:

5.1 The position of Parliamentary Librarian be established at a senior level within the amalgamated service provision department.

5.2 The independence of the Parliamentary Library be granted by Charter from the Presiding Officers.

5.3 That the independence of the Parliamentary Library be reinforced by strengthening the current terms of reference for the Joint Library Committee.
5.4 The resources and services to be provided to the Library in the amalgamated department be specified in an annual agreement between the departmental secretary and the Parliamentary Librarian, approved by the Presiding Officers following consideration by the Joint Library Committee.

Parliamentary agreement to a resolution establishing the new department was given on the understanding that the government would implement the Podger recommendations to ensure the library’s independence. The bill currently before us does not follow through on that commitment. There is no reference to the independence of the Parliamentary Librarian. Labor’s amendments seek to remedy that glaring deficiency.

The bill does establish the statutory position of Parliamentary Librarian and describes the functions of that position as ‘to provide high-quality information, analysis and advice to senators and members of the House of Representatives in support of their parliamentary and representational roles’. The bill also clarifies the role of the Library Committee, on which I had the honour to serve early in my period in the parliament, which advises the Presiding Officers in respect of library matters. It specifies the reporting, appointment, remuneration and termination conditions of the position. It also provides for the provision of resources to the librarian through an annual agreement with the departmental secretary, approved by the Presiding Officers with advice from the Library Committee.

Labor has some concerns, which have prompted the amendments. Late in the last parliamentary period, Labor raised concerns about the qualifications of the Parliamentary Librarian being limited to professional librarians and about the lack of statutory status for the library itself. We also raised concerns about funding cuts imposed on parliamentary departments by the Department of Finance and Administration in order to pay for the security upgrades to Parliament House. These cuts were imposed without any statutory mechanism for oversight of security management. I am happy to say that the President has agreed to Labor’s amendments, which provide statutory status to the Parliamentary Library, expand the possible qualifications for the librarian to include librarianship, information management or individual qualifications and experience judged as suitable by the Presiding Officers, and provide a statutory basis for the functions and operations of the Security Management Board.

We discussed many of these matters in the recent Senate estimates hearings in February and those discussions reinforced some concerns about the protection of the library’s independence and funding. To begin with, the government has ignored Mr Podger’s recommendation that the library’s independence be guaranteed by a charter from the Presiding Officers. In addition, we think very little work has been done to strengthen the terms of reference of the Joint Library Committee—another of Mr Podger’s recommendations. The government seems to have ignored or neglected two of the key recommendations intended to guarantee the library’s independence—recommendations that were the key to the agreement to set up the new department.

We also have grave concerns about the provision of funding to the library. Mr Podger has recommended an annual resources and services agreement to be reached between the librarian and the departmental secretary. That resources and services agreement has been replaced in this bill by a resource agreement. During recent estimates hearings, the Secretary of the Department of Parliamentary Services insisted that a resources agreement was the same thing as a resources and services agreement. What matters in the end is that the library has access to
the resources and services it needs in order to
do its work.

That said, we learned during estimates
that the library has taken a funding cut in the
current financial year of $382,000 and that in
the next financial year it will have a further
reduction, which will be a pro rata share of
the department’s $1.3 million cut. In addi-
tion, the department as a whole is expecting
to absorb a wage increase costing in the or-
der of $2 million. There can be no doubt that
cuts of this scale can only reduce the services
and resources that the library can offer to its
clients, federal MPs and senators. We are
concerned that the government is not com-
mitted as strongly as it should be to provid-
ing adequate funding for the information and
advice services to the parliament, which are
provided by one of our four great national
libraries.

I know people listening might think it is a
little self-serving that senators and members
are so concerned about the library, but peo-
ple need to understand how central it is to
our work and to our democracy that we are
able to access those important resources. It is
a key aspect of a parliamentarian’s capacities
and, I think, a key aspect of accountability
that senators are able to be resourced in this
way. Labor will support this bill, which es-

tablishes the position of Parliamentary Li-

brarian and clarifies the operation of that
position. We are pleased that the government
has seen fit to accept our amendments to
give statutory status to the library and the
Security Management Board and to broaden
the possible qualifications of the Parliamen-
tary Librarian. We are deeply concerned by
the government’s failure to show a clear
commitment to both the independence and
the funding of the Parliamentary Library. We
will continue to take a keen interest in this
situation and hold the government to account
on this most important issue. We will also
continue to stand up for the library, which
has provided outstanding service to this par-


tliament for more than 100 years.

Senator MURRAY (Western Australia)
(12.53 p.m.)—The provisions of the Parlia-
mentary Service Amendment Bill 2005 arise
directly out of the recommendations in the
Podger report and the subsequent creation of
the new Department of Parliamentary Ser-


vices. This situation has been reviewed by
the Senate Standing Committee on Approp-
riations and Staffing and, as the Leader of
the Opposition in the Senate has outlined,
has been canvassed at length in the estimates
committees. Essentially, the bill creates a
statutory position of Parliamentary Librarian
and sets out the functions, resourcing and
reporting obligations of the position. I want
to put on record the Democrats’ strong
agreement with the remarks of the Leader of
the Opposition in the Senate. It is probably
not well understood by the community at
large how integral to the functioning of our
democracy through this parliament the li-


brary and the services it provides are. It is
very much a pillar in the ability of individual
senators and members to carry out their re-
sponsibilities adequately and effectively.

Historically, this proposal to make one
service provision department by combining
these three departments was floated in 1996,
and legislation was introduced into the
House of Representatives by the Labor gov-
ernment at the time but never brought on for
debate. I am told there have been about 10
amalgamation proposals altogether since
Federation. The first of these was nearly 100
years ago, in 1908, but most of the proposals
to amalgamate all or some of the five par-
liamentary departments came after 1977,
which some historians might categorise as
pretty well the commencement of the age of
economic rationalism, so described. The
many years it has taken to achieve this ra-
tionalisation shows just how contentious an
issue this has been. While the Democrats
understand the rationale of amalgamation as a cost-saving and efficiency exercise, I again put on record our deep concerns.

The Democrats have consistently opposed all previous attempts to amalgamate any or all of the parliamentary departments, our thinking being that it potentially compromised, in particular, the independence of the library and the provision of independent services to the parliament. In a nutshell, we have feared that the costs would be greater than the benefits. To an extent this has been echoed in the Podger report, with its warning advice that there is a need to take measures to guarantee the independence of the Library. Further, it is our view that the parliamentary departments should not be wearing the cost of security. That should have been properly and separately funded, as for ministerial and other agencies, and should not impinge on the services that are available to this place. We do not think that the Department of the Senate, Hansard or the Parliamentary Library should have to shed functions and staff to find savings to cover the costs of security. These should be a general Commonwealth government cost arising from an external threat, and it should not be seen as a specific cost to the parliament.

Turning to the main provisions of the bill itself, the bill has two schedules, the first of which establishes and provides for the office of the Parliamentary Librarian. The second schedule makes minor related amendments to the Long Service Leave (Commonwealth Employees) Act 1976 and the Remuneration Tribunal Act 1973. The main provision establishes the office of the Parliamentary Librarian, which will be established within the Department of Parliamentary Services. The Parliamentary Librarian’s function will be:

... to provide high quality information, analysis and advice to Senators and Members of the House of Representatives in support of their parliamentary and representational roles ...

That is a description which we all absolutely agree with, but of course such a description can only become a reality if independence is preserved and proper funding is provided.

The bill also defines for the first time in legislation the term ‘Library Committee’. The Library Committee is the committee or committees of the houses of parliament that advise the Presiding Officers in respect of the functions of the Parliamentary Librarian. There is now a requirement that the Parliamentary Librarian must annually report on the performance of his or her function to the Presiding Officers. The Bills Digest notes that this provision could be interpreted in a number of ways. It could be interpreted that the Parliamentary Librarian has a purely formal reporting obligation to the Library Committee. However, a narrow reading of the Parliamentary Librarian’s role and engagement with the Library Committee could limit opportunities for the free flow of ideas and expectations between senators and members and would reverse the past practice of the Parliamentary Librarian attending Library Committee meetings.

There are also provisions set out that provide for the appointment and termination of the Parliamentary Librarian. Regarding the issue of professional qualifications for appointment as the Parliamentary Librarian, the appointee will now be required to have either or both of the following: professional qualifications in librarianship or information management and/or professional membership of a recognised professional association in the discipline of librarianship or information management. This requirement for specific librarianship or information management related qualifications is consistent with the Podger report recommendations because of the nature of the services the library provides, and it stresses the importance of the requirement that the Librarian possess the relevant qualifications.
What has become quite a central issue is whether the role of Parliamentary Librarian requires professional library and/or information management qualifications. Opinion has been highly divided between the merits of appointing a professional librarian and those of appointing a nonlibrarian. The Democrats would lean towards applicants in possession of information management skills because we think such skills are highly relevant to this position; however, it has been argued that there are other relevant professional qualifications such as strong leadership, management, communication and organisation skills that may be found in other professions that would allow for applicants to be drawn from a wider pool of talent.

I recognise, for the sake of speed and clarity, that we do in fact support the Labor Party’s proposed amendments (1) and (2), on sheet 4509, to the librarian’s role. I should also say, for the sake of clarity, that we support their proposed amendment on sheet 4510, as circulated. I wish to move a second reading amendment which addresses our greatest concerns and goes to the preservation and provision of things we and many other members and senators from all parties, and Independents, value. I move my amendment, as circulated on sheet 4529:

At the end of the motion, add “but the Senate calls on the Presiding Officers and the Government to ensure that the parliamentary departments, in particular the Department of Parliamentary Services, are adequately funded to provide an appropriate level of services to the Houses of the Parliament, their committees and members, that those services are not reduced to pay for increased security expenditure, and especially that:

(a) adequate funding is provided for the Parliamentary Library to provide its essential services;

(b) transcription services are at an appropriate level;

c) public access to Parliament House during sittings of the Houses and public meetings of committees is not curtailed; and

d) public access to the Parliament House art collection is available.”

Firstly, this amendment tries to ensure that the parliamentary departments—in particular, the Department of Parliamentary Services, the library and the transcription services—are adequately funded to provide an appropriate level of services to the houses of the parliament, their committees and members and, mostly importantly, that those services are not reduced to pay for increased security expenditure. Senators and MPs, not just those in opposition and in the minor parties in this place, rely heavily on the valuable research and information services which the Parliamentary Library provides. I have absolutely no doubt whatsoever that the coalition’s current backbench ginger group which is active on tax reform matters—probably thus incurring some raised eyebrows from the Treasurer—will be relying heavily on the Parliamentary Library. That is just one example where members of the government backbench use these services.

The library provides us with knowledge and information that are obviously not a priority for the government and executive, who have their own resources and their own extensive information sources. It is important that the parliament is able to be resourced in order to provide a well-informed counterbalance to government opinion. It is a matter of fundamental importance in the separation of powers. A weaker, less-informed parliament is not in the national interest. I come from a long line of parliamentarians, going back centuries, who regard the parliament as the ultimate protection against an overmighty executive. It is very important that, in recognising all these things, we protect those things which keep the people strong in the
face of an executive. It does not matter who the executive is; it does not matter whether it is the coalition, Labor or some other party. The history of mankind is that the people you fear are kings and executives, not parliaments.

Secondly, the amendment seeks to ensure that the public are allowed to enjoy continued access to the amenities of Parliament House during sitting weeks and that access to public meetings of committees is not curtailed. Parliament House has always been a house for the people. It should not become a house for the elite, whereby access is selective. We are here as elected representatives of the people. Open and free public access to this building and its inmates is an absolutely essential part of our Australian democracy.

Lastly, the Parliament House art collection is not easily accessed by anyone other than the regulars in the building. The Parliament House art collection belongs to the people. It should be available to as many of the public as possible. It must be accessible via any other electronic means as well, and it is important that people are given unencumbered access to our national artworks. It is my understanding that the placement of this art collection on an electronic register has been suspended because of cost. If it has been suspended, that should be regarded as a delay, not as a termination.

I conclude by saying that, while we are always sympathetic to the need for cost savings and efficiencies and very much recognise the obligation of the Presiding Officers in that respect—and we are confident, in fact, that they have their eye on that particular ball—we Democrats strongly believe that it should not be at the cost of reducing core and valuable services that the Parliamentary Library research and information provide in the interests of a strong Australian democracy.

The PRESIDENT (1.05 p.m.)—I indicate, as President, that I have no objections to the second reading amendment moved by you, Senator Murray. I interpret it—correctly, I hope—as support for the President and the Speaker in their responsibilities to oversee the operation of Parliament House and the provision of services to senators and members. I make the observation to the Senate that, although the appropriations to the parliamentary departments are provided for quite correctly in separate legislation to other annual government expenditure, in terms of budget stringency and the need to constantly operate efficiently and within our means, the parliamentary departments are no different from any other agency funded by the public purse.

In saying that, I also say to the Senate that, as President, I take very seriously my obligations to ensure that adequate funding is provided to ensure this chamber and its members can carry out their legislative responsibilities properly. In regard to paragraph (a) of Senator Murray’s amendment, I note that the bill being debated today provides for an annual resource agreement between the Parliamentary Librarian and the Secretary of the Department of Parliamentary Services so that the funding for library services is known and is considered by the joint Library Committee.

I note the comments about public access to Parliament House during sittings and public meetings of committees. I also note the part of the amendment relating to public access to the Parliament House art collection. Might I remind the Senate that, whilst a few works are in the public areas, the purpose of the collection has never been to provide a public art display. Since the first acquisitions in 1986, the collection was designed to provide Australian art in the suites of senators and members and in other areas of Parliament House. The art in the public areas is
largely provided by portraits from the Historic Memorials Collection. The Speaker and I have no plans to diminish that because seeing these portraits of former prime ministers, governors-general and other historical figures forms part of the attraction for visitors to our parliament.

Question agreed to.

Original question, as amended, agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (1.08 p.m.)—by leave—I move amendments (1) and (2) on sheet 4509 and amendment (1) on sheet 4510, as circulated in my name, on behalf of the opposition:

Sheet 4509

(1) Schedule 1, item 8, page 4 (lines 8 to 11), omit section 38A, substitute:

38A Parliamentary Librarian

(1) An office of Parliamentary Librarian is established by this section.

(2) The Parliamentary Librarian and the employees of the joint Department assisting the Parliamentary Librarian may be known as the Parliamentary Library.

Note: The Parliamentary Librarian is within the joint Department (see section 54).

(2) Schedule 1, item 8, page 5 (lines 9 to 16), omit subsection 38C(3), substitute:

(3) The Presiding Officers cannot appoint a person as the Parliamentary Librarian unless:

(a) the person has either or both of the following:

(i) professional qualifications in librarianship or information management (however described); or

(b) the Presiding Officers are satisfied that, by reason of the person’s qualifications in another relevant discipline, or the person’s professional experience, the person has suitable skills to perform the functions of Parliamentary Librarian.

Sheet 4510

(1) Schedule 1, page 8 (after line 17), after item 12, insert:

12A Before Section 66

Insert:

65A Security Management Board

(1) A Security Management Board is established by this section.

(2) The Board consists of:

(a) the Secretary of the joint Department, or an SES employee of that department nominated by the Presiding Officers in writing; and

(b) an SES employee of the Department of the Senate nominated by the President of the Senate in writing; and

(c) an SES employee of the Department of the House of Representatives nominated by the Speaker of the House of Representatives in writing.

(3) The Board may, with the approval in writing of the Presiding Officers:

(a) invite other members of the Parliamentary Service to attend its meetings; and

(b) invite the heads of other organisations to attend or be represented at its meetings.

(4) The Presiding Officers will appoint a Board member to chair meetings of the Board.

(5) The function of the Board is to provide advice as required to the Presiding Officers on security policy, and the man-
These amendments go to the issues I addressed in my contribution on the second reading debate concerning the Parliamentary Librarian and the Security Management Board. I think we have canvassed the issues, and I seek the support of the chamber for those amendments.

Senator CALVERT (Tasmania) (1.08 p.m.)—I have no objection either to the amendments regarding the Parliamentary Librarian or the amendment regarding the Security Management Board. As you would be aware, the first two amendments come out of the deliberations of the joint Library Committee, where it was felt that it was desirable to slightly broaden the qualifications required of a person appointed as Parliamentary Librarian. These amendments also provide that the librarian and his or her staff within the Department of Parliamentary Services may be known as the Parliamentary Library. That of course retains what one might describe as the personality of the Parliamentary Library, which has been such an important resource to senators and members since 1901. Of course, it is also consistent with the decision of both chambers in 2003 to abolish the Department of the Parliamentary Library as a stand-alone department.

The other amendment that Senator Evans moved, regarding the Security Management Board, I certainly support because that amendment comes out of the 40th report of the Senate Standing Committee on Appropriations and Staffing. It will entrench the Security Management Board as the entity which will provide advice to both the Speaker and me on security matters within the parliamentary precinct. It also provides that each of the three parliamentary departments will have representatives on the Security Management Board and that that board will have the power to invite other appropriate people to attend its meetings. These people would typically be representatives of agencies which advise the parliament on specific security measures. The board was the initiative of former President Reid and former Speaker Anderson in 2002, and I must say it has functioned very effectively as a non-statutory body since that time. If this amendment is passed, and I am sure it will be, it will preserve the board in the legislation for the future.

Question agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

The PRESIDENT (1.11 p.m.)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Sitting suspended from 1.12 p.m. to 2.00 p.m.

QUESTIONS WITHOUT NOTICE

Health Insurance: Medibank Private

Senator McLUCAS (2.00 p.m.)—My question is to Senator Minchin, the Minister for Finance and Administration. Is the minister aware of recent actions by government owned Medibank Private to improve on its poor financial performance of previous years? In particular, is the minister aware of the government owned fund’s new competitive tender process which will tighten contract arrangements with hospitals and reportedly further increase gap payments for its members? In the light of the recent reporting of an operating profit of $44.8 million last financial year, can the minister advise what priorities the not-for-profit fund has to bolster its bottom line rather than return excess benefits to its members? When will the min-
ister come clean on the timing and detail of the future Medibank Private sale?

 Senator MINCHIN—I thank Senator McLucas for that question on Medibank Private. I take this opportunity to congratulate the Medibank Private board and its exceptional management on the tremendous turnaround in the performance of that organisation from that which I inherited when I became Minister for Finance and Administration. Under Mr George Savvides there has been a tremendous turnaround in the performance of that company.

 The recent history in relation to the government’s position is that we did conduct a scoping study, as I think is well known—indeed we openly talked about it and the outcomes of it. We announced after that scoping study was received that we had no plans and had not made any decision to privatise that company but we were insisting on putting in place a significant business improvement program. We expected the board and the new management to work to that business improvement program to improve the financial performance of that organisation. In the last few years, based on the government’s insistence on observing that program of business improvement to ensure that the fund did not operate at the level of losses at which it had been operating, the company has been turned around. It is a not-for-profit organisation but that does not mean that it does not make a surplus. We would rather it had a surplus, just like the federal government, than a deficit, which was the situation that I inherited. It does not pay any dividends to the government, of course.

 What is critical is that it operates in such a way that it can keep its charges and fees to its members at the lowest possible level. It is important that it devise arrangements with hospitals to ensure that it can keep its premiums to the lowest possible level. Medibank Private, like all the funds, is facing very big increases in the claims made upon it, with the very significant increases in medical costs in relation to technology and doctors’ and nurses’ fees et cetera. In the last round of increases, Medibank Private’s increases were just below average. There are a number of funds whose increases in fees were greater than Medibank Private’s. Certainly Medibank Private genuinely and sincerely operates on the basis of wanting to keep its fees and any increase in fees as low as possible. But it is critical that it not run at a loss and that it engage in sophisticated and hard-headed contracting with the private hospital sector in order to keep the pressure off premiums. Again I congratulate the company on what is a very significant turnaround in performance.

 Senator McLucas—Mr President, I ask a supplementary question. Is the minister aware of statistics from the Australian Private Hospitals Association which state that, while private health insurers have had an eight per cent increase in premiums rubber-stamped by the health minister, private hospitals claim that contracts with funds are at best only two per cent better than previous contracts that were negotiated? I ask again, Minister: when will this not-for-profit fund return benefits to its members rather than bolster its bottom line in preparation for sale?

 Senator MINCHIN—I repeat: the government has made no decision to sell the fund, although I point out that inherent in the current arrangement is the conflict of interest which there is with Telstra, in that the government is the regulator of the private health insurance industry but it owns one of the companies in the business. They have to go through a separate process. The government does not approve it; it goes through PHIAC, the independent objective body that looks at proposed increases in premiums. The in-
crease for Medibank Private was lower than the industry average and it was lower than Medibank’s 2004 average rise. They must, on behalf of their members, engage in what is a pretty hard-headed process of contracting with private hospitals in order to keep increases to the minimum and keep premiums to the minimum.

Employment: Unemployment Rates

Senator MASON (2.05 p.m.)—My question is to the Special Minister of State, Senator Abetz, representing the Minister for Employment and Workplace Relations. Will the minister confirm that today’s official employment figures show that unemployment in Australia remains at a historic 29-year low? What actions is the Howard government taking to drive the unemployment rate even lower? Is the minister aware of any alternative policies?

Senator ABETZ—I thank Senator Mason for the question and acknowledge his ongoing interest in driving the unemployment rate down even further. I can confirm that today’s official labour force figures show that Australia’s unemployment rate remained at 5.1 per cent. As Senator Mason quite rightly identified, that is indeed the equal lowest unemployment rate since 1976, some 29 years ago. I am sure that Senator Mason will be gratified to know that unemployment went down in his home state of Tasmania—

Opposition senators interjecting—

Senator ABETZ—It went down in Queensland and in my home state of Tasmania. Whenever opposition senators hear good news they start interjecting. The unemployment rate has come down in Queensland and in Tasmania. The reasons it has come down in Tasmania, as you would well know, Mr President, are federal government policies such as the Bass Strait Passenger Vehicle Equalisation Scheme and, most importantly, our forest policy which secures jobs and creates the right climate for investment which then guarantees these job outcomes.

Seasonally adjusted, employment increased by 20,000 over the month of February to a record high of 9,899,700. Most significantly, full-time employment increased strongly by 37,900, also to a record high of 7,079,600. These latest figures mean that since the Howard government came to office in March 1996 over 1½ million jobs have been created. In contrast, when those opposite were in government they could only create 700,000 jobs in their last seven years. And they claim to be the workers’ friend! Their record failed the workers in that they only got half the number of jobs that we have been able to achieve.

How have we done this? It has not happened by accident, and that is the most important thing for the Australian people and especially the Australian Labor Party to understand. There are a few very fundamental points. First of all, we have kept the budget in surplus, unlike Mr Beazley. In his last budget he told the Australian people it was in surplus and it was $10.3 billion in deficit.

Senator Sherry interjecting—

The PRESIDENT—Order! Senator Sherry!

Senator ABETZ—Second, you have got to keep the economy growing.

Senator Sherry—What about John Howard’s record?

The PRESIDENT—Senator Sherry, I called you to order. I remind you that shouting across the chamber is disorderly.

Senator ABETZ—The Australian Labor Party just hate to hear the good news about how the economy is growing and how that is being translated into jobs growth. As I was saying, you must keep the budget in surplus, keep the economy growing, keep interest rates low and reform the workplace relations
system in this country. That is what the Howard-Costello team has been delivering to the Australian people for the last eight or nine years, as a result of which we have seen this substantial decrease in unemployment.

As I have previously outlined in this place, the Howard government has introduced and will introduce legislation into parliament to further reform the workplace relations system. These reforms will create even more jobs for our fellow Australians—reforms like removing the unfair ‘unfair dismissal’ laws that could create up to 75,000 extra jobs overnight. These wonderful results have occurred as a result of Australian businesspeople and others working together, leveraging off the economic management delivered by the Howard, Anderson and Costello team—I use all three names to satisfy Senator Ray. I invite the Labor Party to join us in pursuing these reforms. (Time expired)

**Taxation**

Senator SHERRY (2.10 p.m.)—My question is to Senator Minchin, the Minister for Finance and Administration and the Minister representing the Treasurer. Is the minister aware that the OECD report *Taxing wages* states that, while the tax take across virtually all advanced economies has fallen over the last eight years, the Howard government is one of only two to have increased the tax burden on families? Is the minister also aware that an Australian two-parent family with two children, where one parent earns the average wage and the other two-thirds of the average wage, faces an effective marginal tax rate of 52 per cent? What is the Howard government’s justification for this extraordinary disincentive—one dollar in two—to ordinary Australian families trying to get ahead?

Senator MINCHIN—Before answering that totally unexpected question, could I just take a few seconds to congratulate Mr Ian McPhee on his appointment today as the Auditor-General of the Commonwealth. In particular I thank members opposite for their bipartisan support for a man who I think will do a terrific job for Australia as Auditor-General. I also congratulate Mr Pat Barrett on his exceptional service as Auditor-General and wish him well in his retirement.

I will now turn to the question from Senator Sherry. A report was published in the *Australian* today about the OECD’s report on comparative tax takes in the various countries within the OECD. I point out in beginning my reference to and comments on the report that it is, of course, extremely difficult to compare tax rates across countries because the tax rates differ so much and because there are various elements taken into account. In Australia there is, for example, the family tax benefit system paid through the benefits system, there is payroll tax and there are all sorts of different taxes.

The important point to make is that, if you read this whole report, it does confirm that Australia has one of the lowest overall tax burdens in the OECD. In fact, our tax burden is the eighth lowest in the OECD. Out of the 30 countries, there are 22 countries with a greater tax burden than ours and only eight below. It also shows that the tax burden on ordinary Australians is not high in relative terms. In fact, in most of the cameos which are in this document it has fallen.

The poor old Labor Party, in its desperation to find some bad news on a day which is, as my colleague Senator Abetz has pointed out, a day of great news for Australia’s workers, with a continuation of one of the lowest unemployment rates we have had for 30 years—it is one of the best in the Western world—and another 20,000 jobs created, has ignored the fact that there are major problems with this OECD report. I just heard the Treasurer, Peter Costello, say that
the Secretary to the Treasury, Dr Ken Henry, is writing to the OECD to complain about the fact that this report misrepresents Australia’s position.

It does so in a couple of respects. The OECD acknowledges that its tables do misrepresent the position, because it points out that Australia has converted previous benefits provided in the income tax system to payable benefits. So these tables do not take account of the family tax benefit system. It is a tax benefit, but for accounting purposes and for the benefit of recipients it is paid through the expenditure side of the budget.

The ALP have also conveniently ignored the fact that in many of the tables there is a spike when you get to 2002, because the OECD for some reason then decide to include in the measure of income tax state payroll taxes. They do not include them up to 2002, nor should they. But, for reasons beyond explanation and beyond human understanding, they have included state payroll taxes. The ALP then attack us on tax when in fact it is the state Labor governments whose tax has been included to render this outcome.

In the minute remaining I point out the table on page 94 which refers to the income of married couples where both are earning an income—one at 100 per cent of average earnings and the other at 33 per cent, including income tax, plus employee contributions, less cash benefits, which is a pretty good measure for Australia. The table shows that in fact the tax burden on such a couple as a percentage of gross earnings has gone down since we were elected in 1996. (Time expired)

Senator SHERRY—Mr President, I ask a supplementary question. Wasn’t the minister lauding OECD reports yesterday and the day before? Isn’t the minister aware that the OECD report shows that, over the last eight years of the Howard government, a single parent with two children, earning $35,000, has seen their tax bill increase from 12c in every dollar to 21c in every dollar? Is the minister also aware that a similar family in the United Kingdom would be receiving a rebate of 17.3 per cent on every pound they earned? Minister, isn’t it the case that not only are Australian families paying record mortgage bills and rising medical insurance premiums but their already record tax bills have risen to new heights?

Senator MINCHIN—I think it is staggering that the Labor Party has the gall to criticise us on tax. This was the party that promised the l-a-w law tax cuts—the greatest fraud ever perpetrated on the voters of Australia and, when we introduced into the Senate the biggest income tax cuts in Australian history, this party opposite voted against $12 billion per annum in income tax cuts. So the Labor Party has no grounds to come in here and criticise us on tax cuts. This OECD table shows that we have cut taxes.

Honourable senators interjecting—

The PRESIDENT—Order! I would remind senators that chattering and shouting across the chamber is disorderly.

Telecommunications: Internet Services

Senator EGGLESTON (2.17 p.m.)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Coonan. Will the minister please advise the Senate of how broadband internet is being rolled out around the country—

Senator Bolkus—Very slowly!

Senator EGGLESTON—and is the minister aware of any alternative policies?

Senator COONAN—Whoever across the chamber said, ‘Very slowly,’ is dead wrong, as I will now prove. I do thank Senator Eggleston for the question. As senators on this side of the chamber are aware, broadband or high-speed internet access is of great
interest to Australians from all walks of life and is simply transforming the way people do business and live their lives. Once you use broadband, of course, there is no going back. I am pleased to say that I am aware of some very positive news that has been released today by the Australian Competition and Consumer Commission.

The snapshot of broadband deployment released today shows that, in the year to December 2004, broadband take-up has grown by 121.6 per cent. This can hardly be the sector that Senator Moore was trying to tell the Senate yesterday was a disaster. Take-up has more than doubled in 12 months. This is truly phenomenal growth. As at 31 December the ACCC has found that there were more than 1½ million broadband customers in Australia, almost 850,000 of them signing up in just the past 12 months. Obviously, the government’s $107.8 million Higher Bandwidth Incentive Scheme for rural and regional areas is one of the many factors in this dramatic increase and, of course, competition in the market is clearly the other factor. The figures speak for themselves. The broadband roll-out in Australia has rolled right over Labor’s baseless claims of a disaster.

Not only is the take-up of broadband rocketing ahead but the technology continues to improve. Just today, Telstra announced a $210 million investment in upgrading its ADSL broadband network to ADSL 2 Plus. ADSL 2 Plus will provide broadband speeds of up to 20 times faster than typical ADSL broadband. Telstra has announced that, by the middle of this year, half a million premises will have access to these upgraded exchanges. Importantly, other companies, including iiNet, Internode, SPT and Optus have announced that they will be rolling out competitive ADSL 2 Plus infrastructure into Telstra’s exchanges, making the most of the government’s access regime. Despite all this, there is no doubt that, as the telecommunication debate continues, senators opposite will try to manufacture disasters that do not exist.

Senator Conroy interjecting—

Senator COONAN—Senator Conroy is going to have to spend a bit less time eulogising about soccer games and a bit more time trying to work out what is happening in his portfolio. He is going to have to go further than Fitzroy Gardens in Melbourne to understand what is happening in rural and regional Australia.

Labor’s record on communications is very patchy. That is not surprising. In 13 years of government they had eight different ministers and, to be frank, Labor have some serious ground to make up if they are going to take part in this current debate on telecommunications. Senator Conroy said today, ‘We want to be part of this debate around the regulatory framework.’ Welcome on board, Senator Conroy. You are a bit late, but I am sure you will be able to catch up. As recently as August last year, Labor senators were suggesting the government should adopt dial-up internet technology. That would have cost taxpayers $5 billion. They would have done their dough. I think that the voters of Australia and those using services in Australia are better sticking with this government that is all about delivering access at affordable prices right across Australia.

Senator Conroy interjecting—

The PRESIDENT—Order! Senator Conroy, I would remind you again that shouting across the chamber is disorderly.

Senator Chris Evans—Mr President, I raise a point of order. I want to draw your attention to the fact that, when the minister in replying to a question refers all her comments to a senator and addresses him personally, it is likely—and you seem not to hear this—that it will then incite a response from the senator, such as Senator Conroy, in responding to the minister. So if the minister
wants to continue to refer to him, contrary to standing orders, you will find senators responding. So I suggest you might like to bring the minister to order and ask her to address her remarks to you, Mr President, in accordance with standing orders.

The PRESIDENT—All senators are expected to address their remarks through the chair, but that does not deny the fact that shouting across the chamber is disorderly. Senator Conroy is a main offender because he has a very loud voice.

Senator Chris Evans—Mr President, on the point of order: I would like you to acknowledge, though, that it is out of order for the minister to personally address remarks to a senator when answering a question. If the minister is in denial she ought to read the *Hansard*, because she did it on at least three occasions.

Senator Coonan—Mr President, on the point of order: I did make some comments about Senator Conroy. I addressed no comments to him.

The PRESIDENT—Can we continue with question time. I would again remind all ministers and senators to address their remarks through the chair and cease interjecting.

Taxation

Senator WONG (2.23 p.m.)—Through you, Mr President, my question is to Senator Abetz, the Minister representing the Minister for Workforce Participation. Is the minister aware that the OECD report *Taxing wages* shows that a two-parent family with two children with one parent earning the average wage of $53,000 and the other $35,000 are paying an effective marginal tax rate of 52c on every extra dollar they earn? Minister, isn’t it the case that this effective marginal tax rate is the highest in the industrialised world? Why is it that across the Western world Australian families receive the least reward for their efforts?

Senator ABETZ—I thank Senator Wong for addressing a Treasury question to me. I am not sure that it necessarily fits within the portfolio of Employment and Workplace Relations, but I am more than happy—

Senator Hill—Have a go!

Senator ABETZ—Exactly, Senator Hill—I am going to do exactly that. I am going to defend this government’s wonderful record. Am I aware of the OECD report? No, I am not. But, in relation to the tax rates—

Senator George Campbell—Don’t you read the newspapers!

*Senator Chris Evans interjecting*—

The PRESIDENT—Senator Evans, turning your back on the chair and shouting down the chamber is disorderly and you know it is.

Senator ABETZ—Mr President, we also got an interjection from Senator George Campbell: ‘Don’t you read the newspapers!’ I invite senators opposite to formulate policies not on the basis of newspaper headlines but by doing the hard yards of policy formulation. That is what we have done and that is why Australian workers today enjoy the highest rate of pay ever in this country. They have enjoyed an increase in real wages, unlike under the previous government, when their hero Mr Keating bragged about the fact that real wages had decreased under the Australian Labor Party government. They bragged about decreasing the wages of average Australians.

Senator Wong—Mr President, I raise a point of order. The question was to the minister in his capacity representing the Minister for Workforce Participation. Effective marginal tax rates have been identified by that minister himself as an issue within his portfolio. This minister is clearly digressing from
the question. He is clearly talking about matters which are irrelevant to the question which was asked.

Senator Ian Campbell—Mr President, on the point of order: the question that Senator Wong asked was about reward for effort in comparison to other Western countries. The minister is specifically answering that question.

The President—It has been said before many a time that I cannot direct a minister how to answer a question, but I can remind the minister of the question. Senator Abetz, you have two minutes and 38 seconds to complete your answer.

Senator ABETZ—that is a pity. Can I indicate to Senator Wong that I welcome what I understand may be the first policy position of the new Labor Party under Mr Beazley. It would be a first. Are they on the other side going to join us in supporting tax cuts? There is a deathly silence. They condemn us on this side for not providing tax cuts to the workers. When you then ask them whether they would do the same in government, there is a deathly silence. That is why the Australian workers know that the Howard-Anderson government, with the great support of Peter Costello, have provided such wonderful support to the Australian workers. They know that the Labor Party will talk but they will never act. When the Australian Labor Party could act, when they were in government, they actually drove real wages down, whereas we as a government have driven real wages up whilst also increasing the number of Australians actually enjoying employment.

We as a government have a very proud record. If Senator George Campbell has time after question time, I would be more than happy to have a cup of coffee with him and we will go through the newspapers and see what the latest headlines are. Can I indicate to those opposite that we on this side do not run our policy agenda or indeed our question time agenda on the laziness of looking at the latest headlines in the newspaper and saying, ‘What a good idea—let’s go and ask a question about this!’ There is a lot of talk in this country about a skills shortage. Can I say that the most tragic skills shortage in this country is on the front bench on the other side. No amount of training will ever overcome that.

Senator WONG—I ask a supplementary question, Mr President. I again refer to the OECD report. I do have a copy here if the minister would like to refer to it when answering the question. Isn’t it the case that this report simply confirms comments from the Reserve Bank governor that the Howard government has failed after nine years in office to deal with the serious disincentives in our tax and social security system for people returning to work?

Senator ABETZ—we as a government, of course, can always improve. We make no bones about that. But when you see the unemployment rate come tumbling down, as we have in recent years, to a record 29-year low of 5.1 per cent, it is a bit rich for the Australian Labor Party to suggest that they somehow have policies that might assist in that regard. They were a complete and utter failure whilst in government.

We have delivered real jobs growth to every sector within the community. Indeed, just the other day, I had the opportunity to indicate the real jobs growth for women in this country and that real wages for women had increased in real terms above and beyond men’s wages. No matter what demographic you look at in this country, we have delivered jobs for them, and that is why, can I remind those opposite, we were re-elected on 9 October. (Time expired)
Family and Community Services: Supported Accommodation Assistance Program

Senator BARTLETT (2.30 p.m.)—My question is to the Minister for Family and Community Services. I understand that the minister will be meeting very soon with the state and territory ministers responsible for housing and homelessness on the next round of funding and focus in relation to the Supported Accommodation Assistance Program, or SAAP, which focuses on homelessness. In her answer to a question from Senator Knowles on Monday, the minister said:

Homelessness is basically the priority of the state and territory governments and it is their responsibility.

Given this statement by the minister, can she guarantee that she will ensure the federal government will not back away from providing much-needed extra support for the homeless, even if some states do not agree to increase the proportion of funds they provide to SAAP funding, or is her statement an indication that the government is prepared to back away from a commitment to the homeless if the states do not increase their contribution?

Senator PATTERSON—I thank Senator Bartlett for his question. The Commonwealth government through the SAAP agreements makes a contribution to the states to assist with homelessness programs—supported accommodation programs. Over the life of the last four agreements, the Commonwealth has put in significantly more money than the states—the Commonwealth has put in about 60 per cent and the states have put in about 40 per cent. Given that the states now have increased GST, have increased income from stamp duty and have $4 billion in revenue raised from gambling—a factor in homelessness—I think it is only fair and right that they use some of that money to come up to the plate and match the Commonwealth’s contribution.

We are increasing the SAAP agreement funding money by $175 million. There was $75 million in the last SAAP agreement, which was a one-off payment for GST. I have managed to quarantine that money and, in fact, to get the cabinet’s agreement ahead of budget to have a SAAP agreement in order to ensure that SAAP services see the money and get information about their programs ahead of time, rather than waiting for the budget in May. I think that was an important achievement.

But what is important is that the states match the funding fifty-fifty. The states want to drag in some of the other programs they use. If they want to do that, we will talk about the $2 billion a year we give in rent assistance and the $200 million, over the life of the next SAAP agreement, to provide capital funding for SAAP type accommodation. We can all play that game. Every time we have a SAAP agreement—and Labor would have experienced this when they were in government—the states want to pull in some extra funding that they give for homelessness. Two can play at that game.

I want to see the states take the same responsibility for SAAP, the Supported Accommodation Assistance Program, as the Commonwealth. That is what I will be asking them to do. We have quarantined $106 million of the SAAP, because we had a review of SAAP which told us was that the programs were not doing very well on prevention and transition—that is, 25 per cent of people were coming back into SAAP services. We have some creative programs—and I met with a program this week—where people are working with families; taking them out; giving them accommodation at a reduced rent; assisting them with paying through Centrepay, a measure that we
brought in; and getting them off rental accommodation black lists. They often cannot get rental accommodation because they are on a black list because their spouse has not paid the money and they are coming out of an abusive situation.

We have seen some creative programs. With that $106 million, we want to demonstrate effective ways of getting people into accommodation, not on to the list to come back into SAAP. That money will be there, but I want to drive the states harder to do some creative things, and I want to spread the concept of creative programs under SAAP. The state ministers are going around saying that we are reducing funding. That is totally wrong. There is $175 million more in the SAAP agreement. They need to go to their treasurers to make sure that their treasuries match our funding fifty-fifty.

Senator BARTLETT—Mr President, I ask a supplementary question. I thank the minister for her answer, and I note, understand and acknowledge the federal government’s comments about whether or not the state and territory governments are putting in adequate amounts of money. I note also her comment about two being able to ‘play at that game’ of arguing over who is or who is not spending enough. I simply want to ascertain, through a question to the minister, whether or not homeless people are at risk of becoming a victim of this game between the federal and state governments, and the battle between federal and state governments, over who is or who is not spending enough money. I want to get an assurance from the minister that the federal government will not back away from a commitment to provide the extra funding that is necessary, regardless of whether or not the states also fulfil their responsibilities.

Senator PATTERSON—One state is actually matching the funding; I think the other states can do that. I am trying to extract more money to assist homeless people, and I would like to say that the states and the Commonwealth are sharing fairly the load of providing programs for people in supported accommodation programs. I will do everything in my power to ensure that the states match federal funding fifty-fifty so that we have more money for programs, and for more creative programs, to assist people who are homeless and to also ensure that they are less likely to return into the SAAP.

Employment: Mature Age Workers

Senator DENMAN (2.36 p.m.)—My question is to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. Before I ask the question, I declare I have a conflict of interest. I refer the minister to the Prime Minister’s Community Business Partnership committee’s report on increasing mature age employment in Australia, received by the Prime Minister in the middle of last year. Given the Prime Minister’s statement that this committee would advise the government on the important issue of mature age employment, why is it that its report has still not been released many months after finalisation? Isn’t it the case that the Howard government has failed as yet to act on any of the committee’s recommendations? Why does the Howard government regard mature age unemployment as such a low priority?

Senator ABETZ—I have no idea why Senator Denman might suggest that she has a conflict of interest in this. If she had been asking about youth unemployment today, she might have been able to assert a conflict of interest. In relation to the Prime Minister’s report, I simply repeat that we as a government have had the most successful record of any government in the past three decades in relation to work force participation. As I said earlier, we are not resting on our laurels say-
ing that everything is perfect, but in this real world the Australian people can juxtapose the record of the Australian Labor Party government of 13 years and our record for the past nine years. Any examination of those two records side by side will indicate without any shadow of doubt that we have managed the Australian economy so much better. As a result Australian businesses and others have been able to leverage off that and create the huge employment growth that we have enjoyed in this country.

If there were big growth in mature age jobs, chances are there might not be as big a growth in youth employment, and then we would be bashed around the head by those opposite about those figures. Of course, recovery is always going to be patchy. It is never going to be exactly the same across every demographic within our society. As a government we have put our shoulder to the wheel in a very successful way in ensuring that there has been a benefit to all sectors across the community. Indeed, there is more work to be done not only in the mature age sector, which I am glad to see somebody as youthful as Senator Denman willing to champion, but also in youth unemployment.

We as a government accept that the unemployment rate of 5.1 per cent, which is great in historic terms, is something that we still need to work on to drive down even further for the benefit of the Australian economy. Also might I add that, unlike Mr Keating, who seemed to be proud of driving down real wages, we as a government see that jobs are the best social welfare policy that any government is able to deliver to the Australian people. Delivering jobs, combined with real increases in wages, as has happened under the Howard government, I think is one of the best social welfare performances that any government has delivered to the Australian people in recent times. We will do more for all sectors of the community and of course that also includes the mature age sector.

Senator DENMAN—Mr President, I ask a supplementary question. Instead of increasing migration to deal with the skill shortages that have developed under the Howard government, why isn’t the Howard government prepared to invest in reskilling and retraining older Australians? Why, after nine years in government, does the Howard government still not have a strategy to tackle mature age unemployment or mature age retraining?

Senator ABETZ—I can see that I have just been a complete failure as Chairman of the Ministerial Council on Government Communications, because one of our communication campaigns in recent times has been to encourage mature age people to take on apprenticeships and reskill. It is quite obvious that our campaign in this regard has not been wide enough to attract Senator Denman’s attention, and I will be drawing that to the attention of the committee and the relevant minister and suggesting that we enhance that campaign to ensure that all mature age people in Australia see the benefits of our New Apprenticeships scheme, which is specifically targeted these days at those of a more mature age. If Senator Denman is genuinely under that delusion then clearly we as a government need to communicate that more. However, I think Senator Denman may have just had the misfortune of having to read out a question that the question time committee gave her. (Time expired)

Tasmanian Symphony Orchestra

Senator MURPHY (2.42 p.m.)—My question is to the Minister for the Arts and Sport, Senator Kemp. The minister would be aware of an article in today’s Mercury newspaper about a report proposing the downgrading of the Tasmanian Symphony Orchestra. Can the minister inform the Senate if he
is in receipt of the report? Does he support the proposal to downgrade the TSO?

Senator KEMP—I thank Senator Murphy for the question. Yes, I am aware of the article that he referred to in the newspaper. It was referred to me first thing in the morning by Senator Abetz, I think, followed by other colleagues from the great state of Tasmania. So in answer to the first part of your question: yes, I am aware. The second question was: have I received the report? Yes, I have received the report of the review of orchestras conducted by James Strong and his committee. It was an independent panel and it is a comprehensive report dealing with quite a range of serious issues in this sector. The size of orchestras is but one of the issues dealt with in the Strong report.

The Australian government has not made any decisions on the report’s recommendations. It will be consulting with state governments and it will be consulting with orchestras. Then, on the basis of those consultations, the Australian government will make its decisions.

Senator Sherry—Broad consultation.

Senator KEMP—No. It is a very serious report and it is a report which should be carefully considered. I am pleased to tell Senator Murphy that those consultations are under way at present. Let me say something about the Tasmanian Symphony Orchestra, the TSO. It is indeed an excellent orchestra. It is an orchestra which enjoys very strong support in the Tasmanian community. It particularly draws very strong support, I might say, from amongst my colleagues in this chamber. I have had the pleasure of attending some of its performances, so I have seen for myself the excellence of this particular orchestra.

So let me reiterate: we will look closely at the recommendations of the Strong report. The government have made no decision on those recommendations, including the recommendations relating to the size of orchestras. I will be consulting with each of the state governments that are involved with the orchestras and, following those consultations and following consultations with the orchestras themselves, the federal government will make a decision.

Senator MURPHY—Mr President, I ask a supplementary question. I thank the minister for his answer. I ask again, through you, Mr President: from the praise that the minister has heaped upon the TSO and the obvious support of my Tasmanian colleagues for it to be maintained, can I take it that the minister will indeed argue for a retention of the TSO in its current form and size?

Senator KEMP—You are quite right: I am a fan of the TSO, Senator Murphy. You are quite right that my colleagues are also very strong supporters of the TSO. But I think it is best that we carefully consider the recommendations and have discussions with the state governments. On the basis of those discussions and, I might say, on the basis of the recommendations that I receive from my colleagues, the government will make a decision.

Ms Cornelia Rau

Senator LUDWIG (2.46 p.m.)—My question is to Senator Amanda Vanstone, the Minister for Immigration and Multicultural and Indigenous Affairs. Can the minister confirm that the Rau family have made contact with her office a number of times seeking clarification of various issues? On how many occasions have the Rau family contacted the minister or her office? On what dates have these contacts been made? What is the nature of the concerns that they have expressed or the requests they have made? Have they, for instance, made any requests regarding financial assistance in relation to the Palmer inquiry? Have these concerns or
requests been responded to by the minister, and what is the nature of those responses?

Senator VANSTONE—Thank you for the question, Senator Ludwig. Yes, I have been contacted by the Rau family. My answers relate to contact with me and not to any other contacts they might have made—for example, with the Palmer inquiry direct. There was one letter seeking assistance in relation to the inquiry. That has been responded to and it has been indicated that the assistance would be provided. I have received a subsequent letter indicating a change in the lawyers who would be acting for the Rau family and, with that, a letter from the Rau family themselves. Letters have been signed but have not, to the best of my knowledge, gone in response to those matters.

Senator LUDWIG—Mr President, I ask a supplementary question. Could the minister provide the nature of those responses? Is the minister satisfied with the way in which her office has responded to those inquiries to date?

Senator VANSTONE—Mr President, through you to the Senator: I will give consideration as to whether to release those replies. Of course, whether the Rau family choose to release the letters they have sent and the replies they have been given is entirely a matter for them. If they want the matters aired publicly, they can choose to do that. It is not my general policy that it is a good idea to release letters because some people in the public are interested, if it is not in the public interest. However, that should not present a problem to the Senate, because of course if the Rau family want to release those it is entirely a matter for them to do so. Am I happy? The letters have been responded to by me. I do not usually put my signature to something unless at the time I am happy with it. There are occasions when you write a letter and you get subsequent other information so that you might want to write a subsequent letter. I am not in that position at this point.

Taxation: Family Payments

Senator McGAURAN (2.49 p.m.)—My question is to the Minister for Family and Community Services. Will the minister inform the Senate of the government’s record level of support for Australian families? Is the minister aware of any alternative policies?

Senator PATTERSON—I thank Senator McGauran for his speedy attention to detail on families. Thank you, Senator McGauran, for the question. I am proud to confirm that the Howard government are giving Australian families record assistance. Our More Help for Families package helps families with the cost of raising children and also helps families balance their work and family responsibilities by improving rewards from work. We gave families a one-off $600 bonus per child just before the end of June last year and we increased the rate of family tax benefit A by $600 per child. More than 1.7 million families have benefited from our $600 per child increase in family tax benefit A. It represents an average of $1,033 extra each year for each family. Australian families now receive an average of $7,500 per year from the Howard government.

I would like also to take this opportunity to refute Labor’s baseless and factually incorrect allegation about FTB B and the increase in FTB B. The Howard government have brought forward our election commitment to increase FTB B by $300 per year. The commitment in the election was originally to have commenced on 1 July 2005, but we have been able to bring the payment forward by six months. This is because of the Howard government’s strong economic management. Australian families will start to
accrue entitlement from 1 January this year and will be eligible for up to $150 when they lodge their 2004-05 tax returns. From next year families will be eligible for the $300 payment after they lodge their tax returns. This measure will benefit over 1.3 million families who are sole parent families, or those with one main income earner. It will be worth almost $2 billion over five years.

Yesterday Senator Evans accused me of either failing to understand the government’s election promises or being deliberately deceptive on this issue. I would like to take the opportunity to point out that it is Senator Evans who does not understand the issue. A simple comparison of the Department of Finance and Administration costings in the Charter of Budget Honesty and the revision of the published portfolio additional estimates clearly shows that the half-year bringing forward of this measure is real. The opposition may believe this $150 is not real, just as they argue the $600 per child family tax benefit A increase was not real. Australian families knew it was very real. When they got their tax returns and an average of $1,033, they knew they were real dollars, and they will know that the $150 is an extra $150 that was not anticipated and not committed.

I am not sure whether Senator Evans agrees with or welcomes the bonus. He welcomed what he called ‘additional assistance’ in his press release on 9 February, and then yesterday he criticised it. He seems to have joined his recycled leader in walking both sides of the fence. He cannot continue to do that. When you read his press release of yesterday, he appears to believe that sole parents are the only families who will benefit from this measure. That is wrong too. The additional money goes to all eligible families, not just single parent families. We should not forget that it was the Labor Party whose family policy left sole parent families worse off, and the more children they had the worse off they were going to be. The shadow Treasurer talked about Labor’s family policy on Sunday Sunrise on 6 February and said, ‘No, we won’t be thumping single income mums. That was a mistake.’ It is interesting that they admit they were going to thump single income mums. Catherine King, the member for Ballarat, said, ‘We should never again get ourselves in a position where we attack sole parents.’ I hope they have learnt their lesson but you cannot always guarantee that. Our policy is about assisting families to balance work and family. Our policy is about ensuring that Australian families benefit from sound economic management—to the tune of $600 per child for family tax benefit A and $300 for family tax benefit B, brought forward by six months. (Time expired)

Skills Shortage

Senator FORSHAW (2.54 p.m.)—My question is to Senator Vanstone, the Minister representing the Minister for Education, Science and Training. Is the minister aware of the Prime Minister’s explanation when he stated, ‘Skills shortages are the result of low unemployment’? Is the minister aware that the latest ABS data shows that the number of Australians available to work is 1.4 million—equivalent to 13 per cent of the work force—including 600,000 who are unemployed and 800,000 who are not counted as unemployed but are either actively looking for work or available to work within four weeks? Isn’t it the case that Australia is not running out of workers but running out of skilled workers, and that this is a direct result of the government’s failure to invest in skill development?

Senator VANSTONE—The answer to your question about whether I am aware of what Mr Howard said in that context is no. However, I thank you very much for indicating what he said, and it sounds very sensible.
We have a historically low unemployment rate in Australia—quite the opposite of what we had, with respect, Senator, when the party to which you belong was last in government. The senator opposite mentioned how many workers we have available for work, without taking the opportunity to mention that it was his party that put a million people out of work in Australia and had historically high unemployment rates in all age groups. It may suit the senator to believe that the issues associated with the skills available in the country are as simple as having put more people into particular skills three or four years ago and reaping the benefit now; that the issues are unrelated to the strength of the economy and the unemployment rate; and that the strength of the economy therefore gives people an opportunity to use those skills. The senator may not recognise the interplay between those things and the immigration system, which of course can be used, as I outlined in this place the other day. So the short answer is no, I had not seen the comments, but, as you relate them to me, they sound perfectly sensible.

Senator FORSHAW—Is the minister aware that, while traditional apprenticeships in skilled trades desperately needed by industry and exporters declined by 2,300 between the years 2000 and 2003, apprenticeships in sales and services rose by 25,000? Is the minister also aware that, according to the Australian Industry Group, 175,000 people are expected to leave the traditional trades area over the next five years, with only 70,000 expected to enter the fields that are obviously so important to the Australian economy? Why is the Howard government turning thousands of people away from traditional trades. People may be choosing to train in other areas. The senator’s question did not, as I understood it, address the question of people doing traineeships in areas that go to the traditional trades, which might not give them the equivalent certificate at the end, but in the current climate it certainly allows them to earn the same, if not more, money than they would have under previous circumstances. This government is not turning people away. I refer the senator to answers given over the last couple of days, indicating that an offer was made by the Commonwealth for the Australian National Training Authority agreement which would have resulted in tens of thousands more places being available. Each of the Labor governments in the territories and states declined the offer.

Health: Bird Flu

Senator BROWN (2.58 p.m.)—My question is to the Minister representing the Minister for Health and Ageing. I ask about the spectre of bird flu in Asia, in particular the strain H5N1. Is the minister aware of predictions from the US Centre for Disease Control and Prevention that, if it becomes pandemic, this virus could be 76 per cent fatal compared with the one per cent fatality rate of the Spanish flu in 1918? What preparation has the Australian government made? What spending has been allocated to protect this country and its 20 million citizens from the outbreak of this flu, if it occurs?

Senator PATTERSON—I thank Senator Brown for his question. When we had the Bali bombings I was very aware that the health department did not have an incident room. Having come from Immigration, I thought it important that we should have an incident room. We set up an incident room and it was incredibly useful during the SARS virus situation. It was an important factor in us being able to coordinate and bring together the information from the states and to
make sure that we had everyone in one centre understanding exactly what was going on. Information was fed in from the Asian region and then was sent out to our health people in the states. That incident room has been upgraded again. It is an important thing to have an incident room that can be brought together at immediate notice.

We have been preparing to respond to an influenza pandemic should the need arise. A pandemic virus, as you say, may develop from the bird flu virus circulating in Asia. Quarantine officers at airports and seaports are maintaining a high level of vigilance for birds and bird products from bird flu affected countries. Australia is the first Southern Hemisphere country, and one of only several world wide, to enter into a contract with influenza vaccine manufacturers for a guaranteed and sufficient pandemic vaccine supply to protect all Australians. In the last budget, funding ensured that the national medicine stockpile now contains sufficient quantities of personal protective equipment and antiviral drugs to protect Australia’s health and emergency workers from infection. These workers will be our first line of defence in responding to a pandemic outbreak either overseas or in Australia.

The Australian government has also provided just over $10 million over four years to improve the nation’s infectious diseases surveillance system. This was an issue that was raised during SARS: we need to improve the surveillance system to enable rapid detection and reporting of infectious diseases so we can actually spot areas of outbreak faster than we would have been able to do otherwise. To support neighbouring countries in their preparation for a pandemic, AusAID, in consultation with the Department of Health and Ageing and the Department of Agriculture, Fisheries and Forestry, is developing a program focusing on improving laboratory diagnostic capacity and surveillance of and reporting on emergency preparedness in developing countries in the region. So all in all I think you could say that we have addressed the issues. I believe Australia’s preparations to respond to a pandemic of this nature are among the best in the world.

Senator BROWN—Mr President, I ask a supplementary question. I thank the minister for her answer. Does the government have an estimate of the potential death toll from a bird flu pandemic within Australia? Is it true that immunisation would take some months; that it would take some months to get an adequate vaccine to the outbreak of such a flu? Would the government put in place some form of quarantine of the country if there were to be an outbreak of flu? Has the government considered an emergency situation like that, where such decisions would have to be made?

Senator PATTERSON—With my experience with flu, one of the problems is that the virus can mutate. It is not possible to have stockpiles of vaccines that will protect people against a virus that might mutate. We believe we are as prepared as we possibly can be. I do not believe that we have estimated figures but I will ask the minister for health if we have. But I would have thought rather than present doom and gloom you might actually have been a bit positive about the very strong measures Australia has taken in facing this issue. Because of what we learnt from SARS and our response to that, we are implementing strong measures. The states and territories also focused more carefully on these issues after the SARS outbreak. But if we have any figures I will get them for you. I will ask Mr Abbott, but I do not know whether there are any or not.

Senator Hill—Mr President, I ask that further questions be placed on the Notice Paper.
QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS

Answers to Questions

Senator WONG (South Australia) (3.03 p.m.)—I move:

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

Today in question time a number of questions were asked, both of Senator Minchin and Senator Abetz, on the latest OECD report in relation to tax and wages. The report, entitled *Taxing wages*, was released and made available this morning. It is interesting that, about 24 hours after using the OECD’s comments and discussion in a different context as a defence against some of the criticisms that have been made against the Howard government, what we see now is an OECD report being criticised or undermined. Senator Abetz does not believe that it is necessary for him to have read it or that the issue of effective marginal tax rates is an issue associated with work force participation.

The fact is that the OECD report that has been released is an indictment of this government. It demonstrates quite clearly the continued failure by this government to properly deal with the disincentives that hardworking Australians have when it comes to moving from welfare to work or simply increasing their work force participation—increasing the number of hours they work. This is a government that talks a lot about work force participation, usually in the context of having a go at a number of cohorts of benefit recipients. They talk a lot about the need to move people from welfare to work. On this side of the chamber, we believe that it is a good thing to encourage and support those who are able to work to do so. We do not believe it is a good thing for them to be punished financially for doing so. This government has failed to deal with the punishing effective marginal tax rates that rob people in this country of the incentive to work.

Senator Minchin suggested that the OECD report does not deal with the changes to family tax benefit B. That is not the case. If you read the report, it is quite clear that the changes which were introduced by this government to the FTB withdrawal rate have been taken into account and we still have a situation where we retain some of the highest effective marginal tax rates in the world. In fact, when a second income earner in Australia moves from a third of average earnings to two-thirds of average earnings they face an effective marginal tax rate of over 52c for every dollar they earn. This is vastly higher than that which exists in comparable OECD countries. The next highest, I believe, is Belgium at around 35 per cent. That is a 17 per cent differential between Australia and the next country on the list in terms of effective marginal tax rates. How can this government be taken seriously on the issue of work force participation if it is simply unable or unwilling to deal with the disincentives people face to moving from welfare to work or to increasing their work force participation?

It is interesting to note that when the Minister for Workforce Participation first took this portfolio he talked about the importance of EMTRs, effective marginal tax rates, and about the importance of removing disincentives. He talked the talk, but he is not really walking the walk, because we know from what has been leaked by this government to the *Australian* in the context of their strategy cabinet meeting that the government has indicated that it is not going to deal with the effective marginal tax rate issue, because it is too difficult. I hope I am wrong. I hope those reports are wrong. I hope that the government is prepared to listen to the wake-up call that has been given to it by the OECD and deal with the issue of the disincentives which are punishing Australians who want to work,
which rob Australians who want to work of the incentive to work. But we wait to see if this government will do it.

The government talks long and hard particularly about the participation rate of women. No doubt we do have to do better in this country in encouraging and supporting women to work and increasing the participation rates for women. But the government is not prepared to do the things which are required to increase women’s participation rates. It is not prepared to deal with the work and family issue, despite the fact that this has been trumpeted for years as a barbecue stopper. We have seen almost no reform of any kind on this front by this government. Women disproportionately face the burden of EMTRs. Women are very often the second income earner moving into employment. These are the people who are facing these punishing tax rates, and these are the people in Australia who this government has let down, who this government is refusing to support. The government talks about work force participation but it is not serious about removing the disincentives.

Senator CHAPMAN (South Australia) (3.09 p.m.)—The claims made by the Labor opposition about the tax policies and the impact of tax on Australian workers derived from the OECD statistics just show how statistics can be misused. The Labor Party is using these statistics to falsely claim that the present government, the Howard government, is the highest taxing government in Australia’s history. That ignores the fact that within these OECD statistics are contained state taxes—payroll tax is included in these statistics, a state tax, a tax levied by the six state Labor governments around this country. To say on that basis that the federal government is the highest taxing government in Australia’s history is demonstrable nonsense.

The second point Labor ignores, very conveniently, is that the OECD report very clearly shows that average Australian workers in 2004, as was the case in 2003, had the second highest disposable incomes of average workers anywhere within the OECD countries. Taking tax and benefits into account, this means that average Australian workers have higher real incomes than average workers in any country other than Korea. Higher real incomes is the key to the purchasing power of the wages earned by average Australian workers. Because of the federal government’s policies over the last nine years, wage increases have been matched by productivity increases, so they have been non-inflationary and they have increased the purchasing power of the average Australian worker. That is to the great credit of the policies of the present Howard government.

You need to look at not only tax rates but also family payments—the benefits that are received by workers on particular income levels. As we know, in the last budget the government significantly increased family payments. Families that have two children and earn 100 per cent of the average production wage, as it is defined, have an increase in family tax benefit A. That, combined with the lowering of the taper rate in the current budget, means that a person earning the single-income average production wage who has two children is this year receiving more than $1,800 in additional family assistance. When you combine that with the last budget’s tax cuts that came into effect on 1 July last year and the additional family tax benefit B announced during the election, such a family is now more than $40 per week better off. So the numbers being used by the Labor Party to put forward their arguments are demonstrably false.

A single-income family, for example, with a child aged under five does not even become a net taxpayer until its income exceeds
$41,800. There have been a number of claims made on this issue—for example, that the tax burden on Australians has increased over the past eight years. This is based, again, on the OECD findings, but the OECD press release notes that the tax wedge on earnings rose in more than half of the OECD countries last year. The increases are different for different groups of taxpayers. For a single person earning 100 per cent of the average production wage, Australia has a tax rate of 28.6 per cent, which is well below the OECD average of 36.5 per cent. It is important to note that the OECD has not allowed for the inclusion of payroll tax in the tables prior to 2002. So you are not comparing like with like when you are looking at the eight-year period over which this claim is made by the Labor Party that the tax burden has increased. In one period you have got payroll tax included, and in another period payroll tax is not included. So the comparison simply is not valid.

An important point needs to be made with regard to family benefits being paid to taxpayers. The OECD report claims that the increase in tax has been worse for those with a mixture of family payments and earned income. This ignores family benefits. When they are taken into account, this group has been a net beneficiary. This is very clear. If you read the OECD report completely, you will see than on page 88 it clearly shows that fact, so Labor’s claims cannot be substantiated. (Time expired)

Senator MACKAY (Tasmania) (3.14 p.m.)—I acknowledge the comments of my colleague Senator Wong, who did point out the very useful leak from the cabinet about the fact that the government is not going to do anything about effective marginal tax rates. I find myself wondering where Senator Fiffield is today in this debate. I know he has an interest in reducing effective marginal tax rates. I thought he might have chosen to enter into this debate, given that we do read about him extensively these days in relation to being a member of the new ginger group.

Our contention that this government is the highest taxing government in Australia’s history is correct. Mr Costello gets away with it by saying, ‘Ah yes, but the GST is not a federal tax; it is a state tax.’ It is time to put something on the record here in relation to the GST. The new tax, the GST, collects around $30 billion-odd per annum, recurrent. It replaced the old wholesale sales tax, which was collected by the Commonwealth and was worth about $16 billion per annum. The GST, in fact, grows at twice the rate of the old wholesale sales tax. The Commonwealth no longer has to reimburse the states through general purpose payments, so there it is saving itself around $14 billion net. As it no longer has to pay that sum to the states and with the period of the IGA—the intergovernmental agreement on the GST—having expired, the Commonwealth is now $14 billion in the black, recurrent, per annum—because of the GST. That is a fairly simple concept I would have thought. This is in addition to the bracket creep, to which Senator Wong referred, which is the second point, resulting in an even bigger tax take.

The GST is a growth tax, so it just keeps growing and growing, and that $14 billion gain that the Commonwealth is getting direct to its coffers just keeps getting bigger and bigger. But there is more. Way back in the nineties, the High Court determined that it was unconstitutional for the states to collect tobacco, liquor and petrol excise; I do not know if many senators will recall that. At that point, to ensure that this situation did not disadvantage the states, the Commonwealth correctly took over the collection of those taxes and reimbursed the states for the lost revenue of tobacco, liquor and petrol excise. Fair enough so far; that is fine. But that is not the end of this story.
Since the GST was brought in and the minimum guarantee on the GST to the states has finished, the Commonwealth has not reimbursed the states for petrol, alcohol and tobacco excise. But guess what? The Commonwealth—on my calculations, and I am getting some work done—is now around $8 billion better off per year. I have not heard Mr Costello talking about that. Why hasn’t Mr Costello abolished petrol excise, for example? If you look at the amount of money the Commonwealth is saving from the expiration of the IGA, the intergovernmental agreement on GST, you are looking at $14 billion per annum recurrent plus this $8 billion, which Mr Costello never talks about. The Commonwealth, as a result of the GST alone, is now $22 billion per year better off, recurrent.

I notice that Senator Brandis also wants to speak in this debate and I will be happy and interested to hear his response. Nobody is talking about this particular aspect. Anyway, that is the reality of the situation: this is the highest taxing government that Australia has ever had. The GST is not a state tax; it is a Commonwealth tax. The Commonwealth benefits to the tune of $14 billion per annum and it is adding up, and there is this mystery $8 billion. (Time expired)

Senator BRANDIS (Queensland) (3.19 p.m.)—Saying that this is the highest taxing government in Australian history is wrong. If you want to work out whether a government is high taxing or low taxing, you look at the tax rates. Under the Howard-Costello government, the rate of personal taxation has fallen. When the new tax system came in, the largest personal tax cut in Australian history was introduced. If you look at the rates of corporate taxation, in the life of the Howard-Costello government they have been reduced from 36 per cent to 33 per cent and then to 30 per cent. So we have the lowest personal tax rates that we have had for many years and we have the lowest company tax rates we have had for decades.

You half understand the point, Senator Mackay—because, although the tax rates have been reduced, the revenues have been increased. Do you know why that is, Senator Mackay? Because of the economic management of the Howard-Costello government, company profits are higher than they have been literally in decades.

Senator Mackay—GST!

Senator BRANDIS—I will come to the GST in a minute, Senator Mackay. So, from a 30 per cent company tax rate, there is more revenue generated than there was when the company tax rate under your government was 36 per cent, because companies are so much more profitable. It is the same with personal income tax. There are more people paying personal income tax at higher levels than was the case in the past. Do you know why, Senator Mackay? Because fewer people are out of work, more people are in full-time employment and real wages have increased during the life of this government by more than 15 per cent. That is why people are paying more tax, even though the rates of tax have gone down—because people are doing better, people are earning more and real wages have gone up, just like company profits have gone up, and so revenues have gone up.

But Senator Mackay has asked me to address the question of the GST. Senator Mackay, make my day. In 1999 the states and the Commonwealth entered into an agreement which was called the Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations—it was signed on 9 April 1999. It set the GST at 10 per cent. As even you know, Senator Mackay, the rate of the GST has not increased. The amount of revenue raised through the GST is greater than projected because the
economy is doing so well, people have more disposable income, there are higher real wages and higher corporate profits and so people are spending more. As a result of people spending more, more revenue is being raised through the GST. But the rate of the GST—10 per cent—has not shifted, as you, Senator Mackay, would know.

Where has all this extra revenue gone? We cannot say this often enough: 100 per cent of the GST collected goes unconditionally to the states. It is not a tied grant under section 96 of the Constitution. One hundred per cent of the GST revenue goes unconditionally to the states, and 100 per cent of the surplus revenue beyond the projected amounts of the GST revenues also goes to the states.

Senator Mackay interjecting—

Senator BRANDIS—Senator Mackay, you should take the trouble to read the GST agreement. Do you know what the Labor state and territory governments promised to do? They promised to use any surplus GST revenue to reduce taxes. Have we seen a reduction in state taxes? No, we have not. This year, in my own state of Queensland, which gets about $8 billion of GST money, the Queensland Treasury will get a $760.6 million windfall beyond what was budgeted for. But have they cut payroll tax? No. Have they cut stamp duties? No. Have they cut gambling taxes? No. Have they reduced or abolished land tax? No. The Queensland government is pocketing the GST surplus, but it is not doing its part of the deal and using that surplus to fund a reduction in state taxes. If you want to know the real story about over-taxation in this country, Senator Mackay, look to the state and territory governments, which just coincidently are all in the hands of the Australian Labor Party.

Senator BUCKLAND (South Australia) (3.24 p.m.)—It is clear from what we have heard today that the Howard government, our highest taxing government ever, is committing ordinary Australians to a bleak economic future. Senator Chapman, in his comments a few moments ago, wanted us to believe that the government is not the highest taxing government. He will never convince the Australian people of that, nor will the bluster of Senator Brandis. He just will not convince the Australian people. Earlier today, in answer to a question, Senator Abetz told us—and I think it is quite farcical that he said it—that he had not seen the report from the OECD. I actually believe that he probably has not read it. He probably has not looked at it. He probably has not looked at the front page of the Australian today to see what has been written. I believe that, the same as I would believe any minister who told me that, because this government tends not to pay any attention to anything that might be critical of it. It lives in a fantasy world where it is not hurting ordinary Australians.

However, the report points out something that is very clear and should be taken note of by all politicians from all parties, federally and on a state basis. It points out that a person earning around $90,000 has already had a tax increase of around 1.4 per cent. That is for $90,000. However, the people who are paying around nine per cent extra in tax are the single parents who have two children and are earning about $35,000 a year. They are earning one-third less than the average weekly wage, but they are paying the most in tax increases. This is something that we should be ashamed to associate with. Of course, the shame belongs to the Liberal Party, because you have to ask: who is worse off—the single person earning $90,000 or the single parent with two children? It is very easy to tell. That is what is in the report. That is the report this government wants to dissociate itself from.
The folk who are worse off are people like those we see coming here and sitting in the gallery. They are the parents of the children we see coming in here day after day to see their parliament at work. They are the people who are out there doing their bit for Australia but they are being treated as second-rate citizens by the Howard-Costello government. They are the people who are struggling to pay for their mortgages and their cars, let alone for the fuel to run their cars. They are the people who are seeing their medical bills and the cost of their children’s education increasing regularly. They are the people who are worse off. It is not the wealthy in our society who are suffering; it is those people who are undertaking those jobs that many people do not want to undertake—those people who are already struggling—who are suffering, because those are the people the government never actually talks to. The government cannot hide from the real facts that are being produced. It cannot hide from the fact that taxes under this government have increased. It cannot hide from the fact that, despite all of the bluster of Senator Brandis, it is the highest taxing government this country has had. (Time expired)

Senator BARTLETT (Queensland) (3.29 p.m.)—I want to pull this discussion back down to where it really matters, which is not a political bunfight between Labor and Liberal or between the federal government and state governments but what it means for the quality of life and the basic opportunities for survival of everyday Australians. I do that to pull the discussion back to the question that I asked Senator Patterson today because tomorrow we will have a key opportunity at the coalface. People throw figures backwards and forwards about whether it is the states’ fault or the federal government’s fault. That is an appropriate debate to have. I can understand some of the concerns about the adequacy of the actions of some state governments in how they have been allocating their revenue, particularly given that they, particularly my state of Queensland, have undoubtedly received extra revenue from the GST. Debate about whether the GST is a good thing is irrelevant to whether state governments are adequately spending the money that they receive from it.

Similarly, there are legitimate concerns about the adequate focus and priority of the federal government. But my concern that my question went to today, and it was not addressed by the government, was whether Australians who are in need are going to become the victims of this federal and state Labor-Liberal stoush that we have seen played out in this chamber over the last 25 minutes. It may or may not be the case that individual state governments have dropped the ball on providing proper funding for homelessness and housing, for example. But, if they have, the federal government should not make homeless people or people at risk of homelessness the victims of such a stoush. I could not get a clear guarantee from the Minister for Family and Community Services today that the stoush that is happening over the next round of funding for the Supported Accommodation Assistance Program, which targets homelessness, will not pan out with homeless people being the losers.

As often happens with these agreements, the federal government puts forward an offer. The federal government is proposing to put in extra money if the state governments match it in a certain way. That is fine as part of negotiations but we have to guarantee that, if the states do not do what the federal government wants, homeless people and issues regarding homelessness in general do not end up being the losers. If there is one group in the community who, more than any other, cannot afford to end up with less support it is people at risk of homelessness.
I remind the Senate that the Universal Declaration of Human Rights, to which Australia is a signatory, expresses the right to adequate levels of health, housing and necessary social services. The right to housing is central to other fundamental rights, and that is how we need to approach housing policy in Australia. We need to place housing at the centre of a broader social policy agenda, as people need homes as a fundamental starting point for their emotional and physical well-being. They need homes before they can participate fully in society. They need homes in order to gain education, to seek employment and to access health services. If we do not get the housing policies right—whether it is the federal government or the state and territory governments—we cannot expect to deliver on education, health or employment policies either. All the arguing backwards and forwards about whether the states or the federal government have spent the right amount of money becomes just a lot of hot air. If we cannot get basic policies right on housing then all the other delivery programs being delivered or proposed under education, health and employment are going to fall short as well. In question time earlier this week the minister said:

Homelessness is basically the priority of the state and territory governments and it is their responsibility.

That raises my concerns. It should be a shared responsibility but the federal government has to take leadership and it certainly should not raise the spectre at all as part of these political stoushes and state and federal stand-offs. It would be backing away from the core responsibility of ensuring that housing is provided and that at least people at risk of homelessness are provided with assistance. It is that guarantee that we must get as part of the negotiations that will occur tomorrow between the federal and state and territory housing ministers. (Time expired)

MINISTERIAL STATEMENTS
Australia’s Aid Program

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (3.34 p.m.)—I table a statement on Australia’s aid program by the Minister for Foreign Affairs, together with a document entitled Australian aid: an integrated approach.

Senator NETTLE (New South Wales) (3.34 p.m.)—by leave—I move:

That the Senate take note of the statements.

‘Long on rhetoric and short on detail’ would probably be an apt way to describe the statement from the Minister for Foreign Affairs on Australia’s aid program. In the statement there is little mention of the focus on the international aid community’s objective of poverty alleviation but there is much mention of security, and that is Australia’s security rather than the security of many of our vulnerable neighbours. This of course reflects the government’s official objective of the aid program to advance Australia’s national interest, and this is the lens through which Australia’s aid programs are now delivered. The government’s objective only after this broad-reaching statement goes on to consider issues such as poverty alleviation and sustainable development. That is reflected in the Australian government’s response to the tsunami relief program, which evidence suggests may be more about Australia’s strategic interests within Indonesia than the interests of the Acehnese who were so badly affected in the 26 December disaster.

Looking at where the tsunami aid money will be spent, the popular perception based on reports in some sections of the media is that most of the money, if not all, will be spent on reconstruction and infrastructure
building projects in Aceh, which is one of the poorest and most conflict ridden provinces of Indonesia. That may not necessarily be the case. Whilst the package does focus on areas affected by the tsunami its application is Indonesia-wide. The Prime Minister stated:

While there will naturally be a clear focus on the areas devastated by the tsunami, all areas of Indonesia will be eligible for assistance under the partnership ...

These areas of priority need are exactly those identified by the Minister for Foreign Affairs in May 2004 in his statement on the 2004-05 budget as ‘emerging areas of support’.

It is quite possible that most of the grant aid and the loans component will be spent on projects outside Aceh as a part of the expanded assistance program to Indonesia, the details of which were already being worked out by AusAID prior to the tsunami. Thus, it would appear that the tsunami disaster provided the political will and the opportunity to provide extra funding for programs which, to a degree, were already under consideration.

Australia has come under increasing domestic and international pressure in recent years to increase its aid spending overall. Groups such as the Greens and the non-government organisations that we work with see the quality of Australia’s aid program as having greater significance in some respects than the quantity. Given that, it is important to understand that the Australian government has failed in its stated objective of spending 0.7 per cent of its gross national income on official development assistance in order to meet the Millennium Development Goals, to which the Australian government is a signatory.

Australia’s overseas development assistance has stagnated for the term of the Howard government. In the 10 years preceding the Howard government, overseas development aid maintained an average of 0.33 per cent of gross national income. Since the Howard government was elected to office in 1996, this figure has steadily declined and is now stagnant at 0.25 per cent of gross national income.

If Australia is to meet its target of 0.7 per cent, the real figure of our international aid program would exceed $5.8 billion this financial year, whilst the actual budget figure is only $2.1 billion. This suggests that our aid program is only around a third of what it needs to be in order to meet the targets to which the Howard government is a signatory. If Australia is to meet the set target of 0.7 per cent, the real figure of our contribution specifically to Indonesia would be exceeding $440 million annually, compared to the current $160 million per year. Thus, if we were meeting our international obligations, we would be giving an additional $400 million over five years to Indonesia, and that is without even considering our response to the tsunami assistance. Even dismissing the aforementioned concerns about the tsunami aid package, the Australian government is still delivering well below its own stipulated aim of 0.7 per cent of gross national income to the tune of $400 million over five years to Indonesia, disregarding the tsunami.

Research has been done by the non-government organisation AID/WATCH that clearly illustrates that a significant amount of money that is designated as aid returns to Australia via what is described as the ‘boomerang effect’. This is where aid money ends up in the pockets of Australian business due to a policy of giving Australian aid dollars in contracts only to Australian and New Zealand contractors. Kerry Packer has a company called GRM International that last financial year was engaged in managing $195 million of AusAID projects. It is difficult to put forward an argument that giving aid to Australia’s richest man equates to poverty alleviation.
In December 2004 the foreign minister announced a change in his policy—and it was due partly to pressure from the Papua New Guinean government and organisations like AID/WATCH—so that companies in aid recipient countries will now be able to bid for Australian aid contracts. This recent untying of aid to recipient countries should be commended, but the foreign minister has missed an opportunity to tackle the issue effectively. In regard to the aim of sustainable development, more needs to be done to ensure that recipient countries can get access to these aid contracts. We need to do things such as building capacity within the local countries to enable companies and NGOs to undertake the complex tendering process and to ensure they are able to carry out AusAID contracts.

The minister’s statement, as I said earlier, focuses on Australia’s involvement in security operations in the Solomons, PNG, the Philippines and Indonesia, as well as governance in general, and it presents this as an essential part of protecting Australia’s national interest. Yet the statement is weak on what measures Australia is taking to ensure poverty alleviation in the area. It contains no clear policy statement, no initiatives and no new thinking on how to ensure development aid does its most essential job—that is, reducing the number of people living in poverty.

The question then arises: are Australia’s new security commitments coming at the expense of robust poverty alleviation measures? Certainly, the OECD seems to think so. In the report mentioned by the minister, the Development Assistance Committee states that Australia is not doing enough to ensure poverty alleviation and is focusing too heavily on Australia’s national interest in its aid program by focusing on security and governance issues. The report talks about the need for—and I quote:

… a strengthened poverty focus ... Australian programming should give greater prominence to poverty reduction ... The relationship between poverty reduction and governance, security and the whole of government approach should be reflected in future policy statements and the poverty reduction focus should be followed through more consistently in implementation, monitoring and evaluation.

The minister’s statement makes little mention of the Millennium Development Goals or of how Australian aid programs contribute to meeting these goals. The OECD criticised the government on this point also, saying:

The MDGs are currently not used as an internationally agreed framework for the (Australian) programme within which development actions can be designed and monitored.

Instead of treating it as an either/or contest, the government should be boosting its emphasis and programming resources on poverty alleviation, in recognition that poverty and underdevelopment are major underlying causes of insecurity.

The minister’s statement holds up economic growth as the solution to poverty, but never asks the question: what sort of growth is required? Instead, it presumes that private sector led, export driven growth is the only option. Mechanisms for ensuring forms of growth and development that do more to address poverty alleviation are not seriously considered in the statement. Examples of such forms could include land reform, microcredit, education for girls and community development programs—none of which are mentioned in the statement.

The statement also lacks any recognition that private sector led growth can make conditions worse for people in developing countries. For example, efforts to strengthen property rights for land in Papua New Guinea, where much land is communally owned, will have the likely effect of impoverishing subsistence farmers and forcing
them off the land. Pressure for export earnings can put extra strain on scarce natural resources, leading to major problems of deforestation, as we see in Papua New Guinea.

The minister makes specific mention of a World Bank report on global agricultural trade to bolster his advocacy of full global agricultural trade liberalisation. But a more detailed reading of the World Bank report shows the opposite to be true. Page 123 of the report states, ‘Full food trade liberalisation would be of only marginal benefit to developing countries.’ It states a figure in the order of $10 billion to $12 billion. The report goes on to say, ‘Rather, the scenario most advantageous— (Time expired)

**Senator BARTLETT** (Queensland) (3.45 p.m.)—I welcome the ministerial statement on Australia’s aid program. I think it is a positive thing to have the details of Australia’s aid program presented in a self-contained way to parliament. It highlights an area that should be given more scrutiny and more support. It would be better if there were a stronger demonstration in the chamber from the government of their support and interest in this issue beyond the Minister for Foreign Affairs tabling a statement. Nonetheless, the information contained within it and the fact that it is tabled are positives.

Having said that, in lots of ways the statement is somewhat thin. The minister states that the government’s focus is ‘not on rhetoric but on action and results’. Yet this is a statement which, in many respects, is full of rhetoric. The minister goes on to say, ‘The government will back up our rhetoric on growth.’ The statement commences with a recognition of the generosity displayed by Australians in response to the tsunami crisis. I should note that, while the extent of the giving by Australians following the tsunami was truly inspiring, the personal contributions of Australians to overseas aid and development have risen by 12.5 per cent each year over the past five years. So it has not been a total surge of international assistance out of the blue. There is a wellspring of support amongst the Australian community for others who are in need around the world, including in our own region. I think we should recognise that fact more clearly and seek to build on it. It is for that reason that I also spoke yesterday in this chamber about the need to ensure that the aid and donations that are being provided for the tsunami victims across the entire Indian Ocean region are spent as wisely and effectively as possible so that the value of the contribution that the Australian community has made can be demonstrated and people can be encouraged to continue to increase their donations and support.

I was interested to note in the minister’s statement that ‘Australian aid personnel will stay in Aceh and other affected areas until we are satisfied their work is done’. I certainly hope that is the case. The Democrats will be monitoring the situation in Aceh carefully, as we have done for many years. The people of Aceh have for many years grappled with poverty and suffered gross violations of their human rights. It took a tragic event, such as the tsunami, for the Indonesian government to permit humanitarian organisations and the media into the region. We have to take the opportunity presented by that horrendous tragedy to ensure that some of those past problems do not become part of the future.

I was also interested to see that the government aims to help countries accelerate progress towards the millennium development goals. There has been very little evidence of this objective in previous aid budgets. A UN report last year indicated that progress in eliminating hunger and malnutrition has virtually ground to a halt. The UN had also documented evidence showing that at present more money flows from developing
countries to developed countries than the other way around. In September 2000 all UN member states unanimously adopted the millennium declaration, which gave rise to the millennium development goals. The goals are a set of global objectives to be achieved by the year 2015, which is only 10 years away.

Within that time, among other things, the aim is to halve the number of people living in extreme poverty—by definition, on less than $1 a day—halve the number of people living with hunger, achieve universal access to primary education, reduce the mortality rate of children under five by two-thirds and halt the spread of AIDS within that time. Unfortunately, we are already falling well short of reaching those targets, based on the first almost five years since they were adopted. The minister’s statement acknowledges the conference coming up later this year and, as I say, notes the millennium development goals. I hope that does provide renewed commitment to them.

I acknowledge the statements that have been made. They have a lot of substance to them. One of the reasons why the amount of resources continues to drain out of the developing countries and into the richer countries in the world is not just debt but the flow of income and wealth due to the world economy. There is a lot of truth in the statements that there needs to be as much assistance and focus provided not just on development aid in the sense of grants but on increasing the opportunities for economic development through trade in particular.

The minister’s statement mentions providing secure and stable environments—that is, not just social environments, but the natural environment needs to be protected as well; improving governance and the investment climate, including property rights; opening up to trade; and helping the poor participate in such economic growth, through health, education and market access. The key issues that must be more clearly defined beyond what are generally nice-sounding statements that would be hard to disagree with are that it is the right sort of growth, the right sort of property rights and the right sort of trade—that is, fair trade and property rights that do not allow a few powerful people to grossly exploit the impoverished majority. That is a risk, and there are plenty of examples of how that has already happened.

The Democrats and I do not have a Hansomite approach to the world. We do not believe in putting up barriers to trade. But we believe that, in opening up trade, we need to make sure that it is fair, particularly to those in the most vulnerable positions. That is clearly the case with less developed countries. We have to make sure that, in pursuing this appropriate agenda of increasing the wealth of poor nations through economic development and trade, it is done in a way that genuinely enriches those countries rather than continuing to maintain the overall flow of wealth from the poor to the rich and in a way that does not allow a minority within those countries to exploit their fellow citizens. Certainly, they are valid concerns, whether you are talking about economic activity or ensuring that aid is provided effectively. That is partial support for the minister’s comments, but with a lot of caution thrown in. We need to see how those very broad concepts work in practice and how they are applied to ensure that they do generate greater wealth and a genuine meeting of the millennium development goals of helping those people currently without education and who have problems with child mortality, hunger and extreme poverty. It is not just a matter of stimulating growth; it is about ensuring that that growth operates in a way that is positive overall.
In conclusion, I would like to re-emphasise that, despite the welcome and repeatedly praised contribution—it was certainly praised by the Democrats and I—of this government to people of our region following the tsunami, we should try to ensure that that particular activity is used as a springboard for further expansion of assistance of all sorts to countries less fortunate than ours. It is not being purely altruistic, I might say; it is in our own interests to do so. I certainly hope to continue to push this government to further improve its efforts in that area.

Question agreed to.

GOVERNMENT RESPONSE TO THE SENATE INQUIRY INTO PUBLIC LIABILITY AND PROFESSIONAL INDEMNITY INSURANCE

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<th>Recommendation</th>
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<td>Recommendation 1: The Committee recommends that the Trade Practices Amendment</td>
<td>Response: The Commonwealth has enacted the Trade Practices Amendment (Liability for</td>
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<td>(Liability for Recreational Services) Bill 2002 proceed through Parliament to facilitate free and open debate and to be subject to close scrutiny. Further, that the Government consider: amending proposed section 68B of the TPA Bill to make it clear that protection from liability does not apply to those service providers who are found to have been grossly negligent; establishing a national accreditation program for providers of recreational services-accreditation to be subject to a recreational service provider complying with specified risk management procedures and standards; and amending section 68B to provide that protection from civil litigation is conditional on the recreational service provider being accredited.</td>
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COMMITTEES

Reports: Government Responses

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (3.55 p.m.)—I present four government responses to committee reports as listed on today’s Order of Business. In accordance with the usual practice, I seek leave to incorporate the documents in Hansard.

Leave granted.

The documents read as follows—
### Recommendation 3:
The Committee recommends that the Commonwealth:
- consider acting to protect land-holders whose land may be used to conduct recreational services; and
- work with the states and territories to ensure that legislation is enacted to protect land-holders.

**Government Response:**
The Australian Government has enacted the Trade Practices Amendment (Liability for Recreational Services) Act 2002.

### Recommendation 4:
The Committee recommends that Commonwealth, state and territory governments form a working group to examine how best to give protection to volunteer and not-for-profit organisations and their workers from civil action for damages based on negligence.

**Government Response:**
The Commonwealth has enacted the Commonwealth Volunteers Protection Act 2002 to protect volunteers who undertake voluntary work for the Commonwealth or a Commonwealth authority from civil liability. All states and territories have introduced legislation to provide protection from civil liability for members of emergency rescue services, under certain circumstances. Most states and territories have also introduced legislation providing protection from civil liability for ‘good Samaritans’.

### Recommendation 5:
The Committee recommends that a working group of Commonwealth, state and territory officers be established to examine how best to provide for the long term care and treatment of persons who suffer catastrophic injuries as a result of someone’s negligence.

**Government Response:**
Commonwealth, State and Territory officials are currently examining the issue of long term care and the treatment of persons suffering catastrophic injuries. The Insurance Issues Working Group is undertaking a comprehensive review of current arrangements and possible alternatives. On 6 August 2003, Ministers agreed to proceed with collecting relevant data for assessing a long-term care model at their next Ministerial meeting. Ministers requested that all options be developed on the basis that there would be no net shifting of costs. Ministers also agreed to consider the possibility of linking risk management for doctors and other health care providers in exchange for possible benefits associated with a national long-term care scheme. On 27 February 2004, Ministers examined a range of options for the possible implementation of a long-term care scheme for all catastrophically injured people. Ministers asked officials to undertake further work to explore potential costs, benefits and efficiencies that could arise from the establishment of a nationally consistent framework. Ministers noted that a long-term care scheme would have significant implications for existing health, social welfare and disability arrangements and funding.

### Recommendation 6:
The Committee recommends that the Commonwealth continue to assist organisations to develop their own risk management practices for their particular industry.

**Government Response:**
Professional standards legislation includes a requirement for schemes to implement appropriate risk management practices. A number of states and territories have enacted professional standards legislation, and in other jurisdictions, legislation has been introduced into Parliament or drafting is underway. The Commonwealth enacted the Treasury Legislation Amendment (Professional Standards) Act 2004 on 13 July 2004 which supports state and territory initiatives in this regard.
Recommendation 7:
The Committee recommends that the Government:
make a commitment to the development of a comprehensive national database on the insurance industry in Australia;
put beyond doubt that APRA is to be given the responsibility for developing and maintaining this database;
ensure that APRA has the statutory authority to require insurance companies and other relevant bodies to provide information; and
ensure that it is adequately funded so that it has the resources and level of expertise to effectively collect, collate and analyse data on the insurance industry.
Further, the Committee recommends that APRA:
look carefully at the evidence presented to the Committee on the nature and extent of information that is required to fully understand the insurance industry, especially the pricing of premiums;
make available a draft discussion paper that provides details of the data that it intends to collect and the procedures to be adopted in collecting this material;
follow-up the publication of this paper with industry-wide consultation with a view to determining whether the new regime is going to meet the expectations of the insurance industry; and
report to Parliament on its findings.

Response:
The Commonwealth has agreed to use the Financial Sector (Collection of Data) Act 2001 to require all authorised insurers operating in Australia to submit claims data to APRA for analysis and publication.
Funding for this data collection process was provided in the 2003-04 Budget.
APRA Members have decided to put out for public tender the selection of a service provider to implement and manage the National Claims and Policies Database (NCPD).
APRA Members have also proposed that ongoing funding of the NCPD be provided on a cost recovery basis by those institutions which contribute data to, and access information from, the NCPD.

Recommendation 8:
In light of this ongoing problem of the lack of good quality, nationally comparable court data, the Committee recommends that the Commonwealth give high priority to the work being done by the Australian Bureau of Statistics in developing performance frameworks.
It also recommends that the Attorneys-General treat this matter with urgency and, under the leadership of the Commonwealth Government, work together to ensure that good court data management systems are put in place throughout the country. The main objective is to have national standards apply so that the data across all jurisdictions is compatible, comprehensive and allows for consistency in interpretation.

Response:
The Australian Court Administrators’ Group (ACAG) provided a report on the adoption of a nationally uniform classification scheme of civil matters data for consideration at the Standing Committee of Attorneys-General (SCAG) in July 2004.
SCAG Ministers endorsed the ACAG report.
It is intended that the ACAG report will be provided to the Council of Chief Justices for their consideration with a request for support for its implementation.
SCAG Ministers have requested that ACAG monitor the implementation of the national civil classification system, and report to Ministers on its progress.

Recommendation 9:
The Committee recommends that the Government propose an amendment to section 58 of the Insurance Contracts Act 1984 to ensure that insurers must give at least 14 days notice of the proposed terms of a policy renewal or proposed refusal to renew a policy.

Response:
This issue will be considered in the context of the response to the recent review of the Insurance Contracts Act 1984.

Recommendation 10:
Noting that the first update of the Australian Competition and Consumer Commission’s (ACCC) insurance industry market pricing review was made public in September, the Committee recommends that all subsequent six monthly reports be made public pursuant to section 27B of the Prices Surveillance Act 1983.

Response:
The Australian Government does not consider that it is necessary to subject the ACCC’s Insurance Industry Market Pricing Reviews to the formal requirements of s.27B of the Prices Surveillance Act 1983.
It is the Government’s intention to continue to release future pricing review reports.
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<td>Recommendation 11: The Committee recommends that the Trade Practices Act be amended to allow the ACCC to take enforcement action to ensure that any savings or benefits that accrue directly or indirectly from legislative reforms being implemented throughout Australia to minimise insurance premiums are passed on by the insurance companies to consumers.</td>
<td>Response: The Australian Government considers that current price monitoring is adequate and appropriate. To ensure that the reforms being undertaken by all governments are effective in improving the availability and cost of liability insurance, the Australian Government has asked the ACCC to monitor the industry. The most recent ACCC report indicated that the rate of increase in public liability insurance premiums had slowed in the first six months of 2003, as compared with 2002. On the 27 February 2004, the chairman of the ACCC indicated that he would seek further monitoring powers if there was evidence that insurers were not passing on the benefits of the reforms.</td>
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<td>Recommendation 12: The Committee recommends that the Government more actively monitor the activities of APRA and ensure that it has adequate powers and resources as well as a commitment to diligently supervise the industry.</td>
<td>Response: The Government, in accordance with the recommendations of the HIH Royal Commission report, has instigated a governance structure for APRA that replaces the previous non-executive board with an executive board. The board is accountable for the operation of APRA. This arrangement will further strengthen Australia’s regulatory framework.</td>
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<td>Recommendation 13: The Committee recommends that, in close consultation, the ACCC and ASIC review and report publicly on their respective statutory obligations in regard to consumer protection and market integrity in the insurance industry with a view to: clarifying their respective responsibilities, giving particular attention to whether there is any unnecessary overlap; and establishing whether, in their opinion, the legislation provides adequate and appropriate consumer protection in the insurance industry and, if not, identifying the gaps or weaknesses in consumer protection, including the prices and insurance coverage that are being offered to consumers. The Committee further recommends that the ACCC and ASIC actively promote their roles in consumer protection for all financial products, including general insurance.</td>
<td>Response: Both the ACCC and the Australian Securities and Investments Commission (ASIC) are required to prepare and submit annual reports which are tabled in Parliament. In addition, both agencies regularly appear before Parliamentary Committees inquiring into various matters of relevance to their functions. ASIC’s governing legislation (the ASIC Act 2001) provides a mechanism under which ASIC can bring to the Minister’s attention any deficiencies in the legislation it administers. The ACCC’s governing legislation (the Trade Practices Act 1974) provides a similar mechanism. The Government considers that both agencies are already active in promoting their activities, and educating the public as to their consumer protection roles.</td>
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Recommendation 14:
The Committee recommends that the Government amend the FSR Act to allow not-for-profit organisations to be included in the definition of ‘retail clients’.
The Committee recommends that the Government, by regulation, include public liability insurance and professional indemnity insurance in the classes of insurance covered by the dispute resolution provisions of the FSR Act.
The Committee recommends that ASIC monitor the effectiveness of the dispute resolution provisions and report on this annually to the Parliament.
The Committee recommends that ASIC review, as a matter of urgency, the General Insurance Enquiries and Complaints Scheme and in consultation with the Insurance Council of Australia ensure that it covers adequately public liability and professional indemnity insurance and not-for-profit organisations. Further that it re-examine definitions in the terms of reference, such as small business, to ensure that they are consistent with definitions in Commonwealth legislation.

Response:
The Corporations Act 2001 (as amended by the Financial Services Reform Act 2001 (FSRA)) currently provides that a range of general insurance products, when provided to an individual or for use or in connection with a small business, are taken to be provided to a ‘retail client’. The definition of ‘carrying on a business’ in the Corporations Act includes a business carried on otherwise than for profit. Therefore, not-for-profit organisations that meet the definition of ‘small business’ (which depends on the number of employees of the business) would already be considered retail clients in respect of the provision to them of general insurance products.
The categories of general insurance products designated in the Corporations Act as provided to retail clients were closely considered when the FSRA was being drafted. The majority of these categories of insurance replicate those defined to mean standard cover in the Insurance Contracts Act (ICA) and Regulations. Personal and domestic property insurance were also added to the list on the basis that, like the policies imported from the ICA, they are essentially for personal, domestic and household protection, or ‘consumer’ policies. The products listed are widely held by a broad cross-section of the community. Professional indemnity and public liability insurance policies are generally issued to more specialised sectors of the community. Moreover, there would be little point in applying the dispute resolution provisions of the FSRA to professional indemnity and public liability insurance without applying many of the other provisions within the FSRA as well. This would amount to a very major change to the FSRA regime, which would have substantial implications.
ASIC will, as a matter of course, monitor the effectiveness of dispute resolution processes across the financial sector as part of its administration of the Corporations Act. The extent to which this matter is highlighted in ASIC’s annual report to Parliament is a matter for ASIC. However, it is noted that ASIC is accountable to the Parliament not only through its annual report, but also via its many appearances before Parliamentary Committees, at which details of ASIC’s views on the adequacy of dispute resolution procedures can be sought.
The Insurance Enquiries and Complaints (IEC) Scheme is a dispute resolution process established by the general insurance industry. As such, it is not for ASIC to initiate any review of the scheme’s coverage. However, under the Corporations Act, ASIC must approve any dispute resolution systems that the legislation requires Australian financial services licensees to have in place for retail clients.
Recommendation 15:
The Committee recommends that the General Insurance Code of Practice be revised so that it provides remedies for community groups and small businesses who are affected by price exploitation in relation to public liability or professional indemnity policies. The Committee recommends that Insurance Enquiries and Complaints Ltd submit the revised code for ASIC’s approval under the FSR Act.

Response:
The General Insurance Code of Practice (the Code) is voluntary and is the responsibility of the industry. In the event that price exploitation is exposed, the Government will look to all suitable remedies, including compelling industry to strengthen the Code. Under the FSRA and Corporations Act, ASIC has the power to approve codes of conduct. Such codes have to be voluntarily submitted for approval since it is not mandatory to have a code. The legislation makes it clear that before ASIC can approve a code it must satisfy itself about a range of matters including that there are adequate mechanisms to ensure compliance with the code.

GOVERNMENT RESPONSE TO THE SENATE FINANCE AND PUBLIC ADMINISTRATION REFERENCES COMMITTEE REPORT ON RECRUITMENT AND TRAINING IN THE AUSTRALIAN PUBLIC SERVICE

Background
1. The bi-partisan report of the Finance and Public Administration References Committee (the Committee) on Recruitment and Training in the Australian Public Service (APS) was tabled in the Senate on 19 September 2003.
2. The purpose of the Inquiry was ‘to examine whether current recruitment and training practices and policies in the Australian Public Service are adequate to meet the challenges the APS faces’.
3. The Committee’s Terms of Reference are at Attachment A.

Human Resource Management in a devolved APS
4. As the report acknowledges, the APS has been responding for over twenty years to the challenges presented by sustained and accelerating social, economic, demographic and technological change, combined with increasing community expectations of the APS.
5. The APS response to these challenges has been characterised by its progressive shift away from a system of centralised control. The Public Service Act 1999 (the PS Act), together with the Workplace Relations Act 1996, represent the culmination of two decades of public sector management reform. For five years, Agency Heads have now had the responsibility, together with the flexibility, to manage their staff according to their business needs in order to maximise the performance of their agencies.
6. Agency Heads exercise the full range of powers of an employer in respect of agency employees and have the authority to engage and terminate the employment of these employees subject to certain conditions. They also have the authority to negotiate terms and conditions of employment with their employees within policy parameters. Agency Heads have the prime responsibility for management decisions and actions within their individual APS agencies, including in respect of recruitment, and learning and development.

The Accountability and Reporting Framework
7. The APS in 2004 operates within an accountability and reporting framework that is designed to balance the greater management and employment powers that have been given to Agency Heads with their increased accountability for the use of these powers.
8. Annual reports are one of the main vehicles by which APS agencies publicly report on their performance. Sections 63 and 70 of the PS Act require Agency Heads to provide their Minister with an annual report detailing
their activities during the year for presentation to Parliament. The annual reporting requirements, approved by the Joint Committee of Public Accounts and Audit, provide that annual reports should include an assessment of an agency’s effectiveness in managing and developing its staff to achieve its objectives. Matters suggested for inclusion in the annual report include workforce planning, staff retention and turnover and an agency’s key training and development strategies.

9. Another critical element in the maintenance of accountability across the APS is the requirement under section 44 of the PS Act that the Public Service Commissioner report annually to Parliament on the state of the Service. In addition to the APS Commission’s own research and databases, one of the main sources of information for the report is a questionnaire sent by the APS Commission to all agencies employing staff under the PS Act. Section 44(3) of the PS Act requires Agency Heads to give the Public Service Commissioner whatever information the Commissioner requires for the State of the Service Report.

10. The Auditor-General has an important role in ensuring APS agencies are accountable by reporting on their performance to the Parliament. The Auditor-General Act 1997 provides the Auditor-General with a high level of independence and overriding information gathering powers. The Australian National Audit Office (ANAO) also regularly produces better practice guides on public sector management issues including workforce planning and learning and development in the APS.

11. Finally, the Management Advisory Committee (MAC) is a high level APS forum that advises the Government on matters relating to the management of the APS. The MAC is established under section 64 of the Public Service Act, and chaired by the Secretary of the Department of the Prime Minister and Cabinet, with the Public Service Commissioner as executive officer. It includes all Portfolio Secretaries and the heads of larger APS agencies. While the MAC has no statutory powers or executive functions, it provides a forum for members to discuss and report on significant issues of topical and strategic interest to the APS. The work of the MAC is becoming increasingly influential as a source of guidance and identification of better practice approaches to improving public administration.

12. The Committee’s report notes that recent reports from the MAC and the ANAO ‘provide a firm basis for agencies to develop practical approaches to recruitment, retention and training’. An outline of these and other recent APS Commission publications to which reference is made in the Government’s response to the report is at Attachment B.

The Role of the Public Service Commissioner

13. While each Agency Head has employer powers, the Public Service Commissioner has an important role in contributing to the future capability and sustainability of the APS. As well as her reporting and quality assurance role through the State of the Service Report, the Commissioner has a specific statutory role under section 41 of the PS Act to develop, promote, review and evaluate people management throughout the APS, and to foster and contribute to leadership in the APS. This includes, amongst other responsibilities, promoting and upholding the merit principle, and developing and promoting people management policies and practices in recruitment, and learning and development.

The Government’s Response

14. The Government’s response to the Committee’s recommendations has been framed against this background, noting the report’s advice that ‘the impacts of devolution on the way the ‘new APS’ is managing recruitment and training challenges is a recurring theme throughout the report’.

15. For the most part, the Committee’s report reinforces the significant effort being undertaken by APS agencies, the APS Commission and the MAC in recent years to improve workforce planning and to tailor recruitment, and learning and development strategies to
current and future business requirements. For example, the MAC’s report last year on Organisational Renewal provides careful analysis of demographic trends in the APS and promotes improved workforce planning, employment flexibility, targeted recruitment and more structured learning and development. The MAC report reflects much of the Government’s wider efforts to address demographic change, workforce flexibility and enhanced skills and productivity.

16. Accordingly, many of the Committee’s recommendations confirm that current APS recruitment, and learning and development arrangements appropriately reflect the changes in the APS and the Australian workforce over time. The recommendations are also generally consistent with the roles of Agency Heads and the Public Service Commissioner in an environment where responsibility for management decisions has been devolved to Agency Heads.

17. In all, many of the Committee’s recommendations endorse practices and arrangements that the Government considers all agencies should have, or already have in place. Generally, the Inquiry has affirmed the Government’s commitment to devolved people management arrangements for the APS and the role of APS agencies vis-à-vis the APS Commission, and reinforced the importance of agencies adopting a rigorous, strategic approach to workforce planning. In particular, the Committee has identified the value and appropriateness of the Government’s efforts in relation to encouraging APS agencies to consider the benefits of Indigenous employment.

18. The Government considers that a small number of recommendations, however, are directed to a more centrally driven recruitment and training approach that would not be consistent with the current devolved APS management environment and seek to impose reporting requirements on Agency Heads which could in practice be met adequately under the existing accountability framework.

19. There are some recommendations which would require all agencies to apply a uniform approach. While the proposed approach might reflect good practice in many cases, in other cases a business driven model might well lead to a different approach. The Government’s policy in favour of devolved management is based on ensuring the focus is on each agency’s business needs as determined by the Government, with the onus on Agency Heads determining and managing their workforce requirements accordingly. The Government’s response does not accept these recommendations. However, where relevant, work being undertaken by the APSCommission to assist agencies to tailor good practice to their own operations is noted in the Government’s response to particular recommendations.

20. While the Committee has also recognised the crucial role for accountability of reporting by APS agencies in a devolved environment, its recommended requirements can, in the Government’s view, be met through the accountability and reporting requirements currently in place in the APS. In recognition of this, the Government’s response to the Committee’s recommendations does not therefore increase the current reporting requirements for APS agencies and the APS Commission. These are considered adequate to fully meet the intent of the Committee’s recommendations. In particular, the Public Service Commissioner will continue to seek information from APS agencies that enables her to provide high-level commentary on capability development and employment practices in the APS through the State of the Service Report.

21. The Commissioner will also continue to provide advice and support to APS agencies consistent with the recommendations of the report, and to promote people management policies and practices in accordance with her current statutory responsibilities. The APS Commission will continue in its current role of providing advice and guidance to agencies in relation to a range of recruitment strategies and practices. Workforce planning, which encompasses the relationship between the selection, retention and development of
employees in the context of future business needs, will continue to promote by the APS Commission through a range of forums to support agencies to meet their current and future business objectives and build individual and organisational capability.

22. The Committee calls upon the Public Service Commissioner to assume a particular role in APS recruitment practices in relation to the employment of graduates and to promote the APS as an employer of choice and public administration as a major profession. This recommendation is consistent with the recent MAC report Connecting Government: Whole of Government Responses to Australia’s Priority Challenges. The report found that:

Whole of government opportunities have the potential to be a positive attraction factor and marketing tool for graduate recruitment and should be part of graduate programs. Research indicates, for example, that graduate recruits (in the APS) responded positively to the ability to move between departments.

23. The Government notes that this recommendation would require additional resources, and this would need to be tested for priority in a future budget context. Accordingly, the Government response agrees that there is value in considering at a later stage a further role for the APS Commission to promote the APS as an employer of choice and appropriate arrangements to support such a role.

DRAFT WHOLE OF GOVERNMENT RESPONSE TO RECOMMENDATIONS 1-28

Recommendation 1: The Committee recommends that the APS Commission widely disseminate advice and guidance to agencies clarifying the flexibility with recruitment available under the legislation. This should include information on the exceptions that apply to requirements for advertising vacancies, Australian nationality and candidates who have accepted a redundancy benefit (Para 2.89)

Response: Agree

Recommendation 2: The Committee recommends that, to reduce barriers to mobility, the APS Commission provide clear guidance to all agencies on efficient, flexible and streamlined recruitment and selection processes. (Para 2.91)

Response: Agree

Recommendation 3: The Committee recommends that the APS Commission provide clear guidance to all agencies on their responsibilities under the Public Service Act 1999 regarding non-ongoing employees’ entitlements and rights. (Para 2.103)

Response: Agree.

Recommendation 4: The Committee recommends that all APS agencies develop mandatory exit interview processes to monitor and report on retention and separation trends. The APS Commission should assist agencies in this process and also develop a set of standard questions to enable it to report on APS-wide retention and separation issues and developments. (Para 2.112)

Response: Agree in part. Agencies may wish to use tailored questions in exit interviews or post separation questionnaires that meet their own purposes—this information may, for example, draw on findings of agency staff surveys and be used to support workforce planning. However, a centralised and standardised collection, analysis and reporting of APS-wide exit interview data would be resource intensive for both APS agencies and the APS Commission and would not maximise the usefulness of the exit interview process to individual agencies. The APS Employment Database (APSED), which is maintained by the APS Commission, contains APS-wide data that currently allows reporting on APS trends in engagements and separations over time. As well as providing the capacity to analyse and report by a range of variables such as classification, age, gender and location, APSED provides a resource against which agencies are able to benchmark themselves. Information on service-wide retention and separation trends will be included in the Commissioner’s State of the Service Report.

Recommendation 5: The Committee recommends that all APS agencies, as a priority, develop a detailed analysis of their present workforce profile and a strategic action plan to meet their future workforce needs. (Para 2.116)
Response: Agree. The Government considers it important that all APS agencies develop strategic workforce plans so as to meet future workforce needs and, that for workforce planning to be effective, it is critical that agencies develop workforce planning strategies that are tailored and timed to the specific agencies’ context and meet their business objectives and changing workforce needs. The Management Advisory Committee (MAC) has noted in its report Organisational Renewal, released in 2003, that ‘agencies need to engage in more systematic workforce planning’.

Many agencies have, to date, undertaken significant steps to improve their workforce planning. Responses to the agency survey undertaken for the State of the Service Report 2002–03 indicated that 36% of agencies had in place policies or strategies to ensure they would have the skills and capabilities needed in their agency for the next one to five years. Consistent with the priority which agencies are placing on workforce planning, another 54% indicated that they are currently developing these for 2003–04.

To further support agencies’ workforce planning activities, the Australian National Audit Office (ANAO) and the APS Commission collaborated to produce the better practice guide: Building capability: A framework for managing learning and development in the APS, in April 2003. The APS Commission, together with the Departments of Employment and Workplace Relations, and Finance, and Comsuper and Comcare also developed a package of resource materials for human resource practitioners in the APS to address retention of mature aged workers which was launched in late 2003. Details of these, and other recent publications which promote and assist agencies to improve their workforce planning are provided at Attachment B.

The APS Commission is currently developing an Internet interface that will allow agencies direct access to their workforce data from APSED, including customised tables providing a demographic profile of staff in their agency, together with APS averages for benchmarking. The APS Commission is also continuing to undertake a range of other activities to support agencies workforce planning including learning and development options, case studies and collaborative projects. Responses to Recommendations 11 and 12 also consider aspects of workforce planning in APS agencies.

Recommendation 6: The Committee recommends that, as a priority, all agencies develop mentoring programs and activities to support new young recruits. (Para 2.124)

Response: Noted. The Government considers that mentoring programs are best developed by agencies to meet their particular needs and may not be appropriate to the circumstances of all agencies. They may also extend beyond new young recruits to lateral recruits of whatever age and employees from specific diversity groups.

Recommendation 7: The Committee recommends that the APS Commission assist agencies to develop collaborative arrangements with industry to establish work experience arrangements for young people, especially in areas of key skill needs. (Para 3.64)

Response: Disagree. While reciprocal work experience placements with industry are desirable, agencies are better placed to know their requirements and to generate such placements.

Recommendation 8: The Committee recommends that in its overall recruitment strategy the Government re-commit the Commonwealth to significantly increasing the number of trainees employed in the APS. (Para 3.66)

Response: Disagree. The Government is aware that the changing nature of work in the APS means that for many agencies fewer positions are needed at lower points in the classification structure—the MAC report Organisational Renewal identifies the significant change undergone by the APS workforce, including recruitment patterns that see a greater reliance on graduates and the lateral engagement of older people above the base grade level together with a decline in employment at the lower classification levels. It is considered that agencies are best placed to know their likely need for the engagement of trainees in the future and, while it is not anticipated that there will be a need for a significant increase in the number of trainees within APS agencies, it may be that as agencies face greater competition for staff, they may wish to pursue the recruitment of trainees.
Recommendation 9: The Committee supports the APS Commission’s initiative to establish an indigenous employment working group to assist development of recruitment and retention strategies. The Committee recommends that the APS Commission give priority to implementing and monitoring these initiatives and in particular improve information dissemination, awareness raising and communication strategies to indigenous people on employment in the APS. (Para 5.49)

Response: Agree. The Government is supporting the APS Commission’s priority project aimed to help agencies in the recruitment, retention and development of Indigenous employees.

The APS Commission has established:

- a high level Deputy Secretary Steering Committee, to support and provide direction to the working group;
- an Indigenous Employment HR Forum to provide a forum for employing agencies to discuss issues and share knowledge on good practice approaches to Indigenous employment;
- State-based Indigenous APS employee networks in all States and Territories.

The APS Commission has also developed a communication plan to improve information dissemination and to raise awareness of the project.

Recommendation 10: The Committee recommends that the APS Commission have a dedicated budget to assist indigenous people to gain employment in the APS. The Committee also recommends that indigenous employees be provided with ongoing intensive support for career development and to improve retention rates. (Para 5.51)

Response: Noted. The Government has agreed to the APS Commission accessing funding of $400,000 from its accumulated reserve funds to support the Indigenous Employment Strategy. The need for further funding will be considered in the light of the findings of the current project.

Recommendation 11: The Committee recommends that all APS agencies develop a detailed recruitment strategy with a set of objectives for the next three years. Each agency should report annually to the APS Commission on progress in implementing its recruitment strategy. Agencies should also report on progress annually to the APS Commission. (Para 6.38)

Response: Agree in part. The Government recognises that it is important that agencies develop strategic workforce plans that are tailored to, and timed to meet the specific context and business objectives of individual agencies. It further notes that recruitment strategies represent only one aspect of workforce planning and need to be aligned with retention strategies to meet agencies’ changing demographics and capability requirements. The annual reporting requirements for APS agencies provide that annual reports should include an assessment of the agency’s effectiveness in managing and developing its staff to achieve objectives. Matters that are suggested for inclusion in the annual report include workforce planning, and staff retention and turnover. There remains scope for the APS Commission to seek information on matters such as workforce planning in connection with the State of the Service Report. Further mandatory reporting by agencies to the APS Commission is not seen as appropriate.

Recommendation 12: The Committee recommends that the APS Commission present a detailed report annually, as part of the State of the Service report, outlining the progress made by each agency in achieving its objectives in recruitment. (Para 6.40)

Refer to responses to Recommendations 5 and 11. The Government is supportive of reporting on the capability of the APS and encourages agencies to engage in workforce planning. This is a broader concept than reporting separately on agencies’ recruitment objectives. While the State of the Service Report may include some analysis of recruitment issues facing agencies, a detailed report outlining the progress made by each agency in achieving its objectives in recruitment is considered to be of limited use in assessing their effectiveness. As indicated in the response to Recommendation 11, the annual reporting requirements for agencies also includes an assessment of the agency’s effectiveness in managing and developing its staff to achieve objectives.

Recommendation 13: The Committee recommends that the APS Commission assume a greater
role in APS recruitment practices and in particular establish benchmarking of recruitment practices. (Para 6.40)

Response: Agree in part. The APS Commission’s advisory role includes providing advice on the benchmarking of recruitment practices. For example, the Commission has recently produced and released a Recruitment and Selection Kit to provide a benchmark for managers for best practice in recruitment. The Commission does not have a statutory role in the actual recruitment practices of agencies.

Recommendation 14: The Committee recommends that the government provide the APS Commission with such additional resources as are necessary to fulfil an enhanced role in guiding and monitoring APS recruitment strategies and practices. (Para 6.42)

Response: Noted. Any additional resources would need to be considered and prioritised in a future budget process. While recruitment is primarily the responsibility of each agency, consideration will be given to the APS Commission being tasked and provided appropriate resources to complement agency recruitment activity by better promoting the APS as an employer of choice and extending the promotion of public administration as a career. Recommendation 27 also relates to this response.

Recommendation 15: The Committee recommends that APS agencies review management processes to ensure that training outcomes are clearly and transparently linked to agency and individual goals. (Para 7.46)

Response: Agree. This recommendation reflects current good practice and the intent of publications from MAC, the ANAO and the APS Commission. It is current practice in many agencies. The recommendation reinforces initiatives in those agencies that are working to improve their workforce planning and governance arrangements to better ensure alignment of agency goals and individual learning and development.

Recommendation 16.1: The Committee recommends that the APS Commission enhance its advisory and reporting roles, including reporting to Parliament, by:

(16.1) encouraging and supporting collection and analysis of APS-wide data on training and development; and

Response: Agree with qualification. recognising that the collection of data to measure the levels of formal off-the-job training being provided—as distinct from the broader concept of learning and development—has the potential to detract from recognition of the important role and need for effective evaluation of the full range of learning and development activities. Learning and development will continue to be a key area covered by the agency surveys undertaken by the APS Commission for future State of the Service Reports.

The 2002–03 agency survey gathered a range of APS-wide data on learning and development which was used in the 2002–03 State of the Service Report. The survey addressed both formal off-the-job training and less formal on-the-job learning and development, and the questions in the survey were based on the principles and minimum data set recommended to agencies in the ANAO-APS Commission better practice guide Building capability—A framework for managing learning and development in the APS. To further support agencies in this area, the APS Commission is currently developing a guide on Evaluation of Learning and Development in the APS.

Recommendation 16.2: The Committee recommends that the APS Commission enhance its advisory and reporting roles, including reporting to Parliament, by:

(16.2) analysing the costs and benefits of training at both an individual agency and whole-of-government level. (Para 7.26)

Response: Agree with qualification. Evaluation (including cost-benefit analysis) and reporting on the effectiveness of training strategies should primarily be an agency responsibility. However, the APS Commission will continue to report on relevant service wide issues through the State of the Service Report. In addition, following the more widespread adoption by agencies of the minimum data set recommended to agencies in the ANAO-APS Commission better practice guide Building capability—A framework for managing learning and development in the APS, the APS Commission intends to consider assessing
the extent to which agencies are themselves effectively evaluating their learning and development activities. The response to Recommendation 22 also relates to, and should be considered in conjunction with this response.

**Recommendation 17:** The Committee recommends that centralised graduate and post graduate training such as that offered by Australia New Zealand School of Government and other institutions, as well as the new Public Sector Management program, be promoted to employees across the APS. (Para 9.35)

**Response:** Agree. The APS Commission will continue to actively promote both the Australia New Zealand School of Government and the new Public Sector Management program to APS agencies.

**Recommendation 18.1- 18.3:** The Committee recommends that all APS agencies demonstrate continuing support for employees training and development aspirations by:

18.1 including a strong commitment to learning and development in corporate plans;
18.2 developing structured training programs and career pathways built on accredited and articulated training where appropriate, publicise these to employees and to potential recruits in agency marketing strategies;
18.3 providing sufficient funds and HR personnel to support integrated training for all employees;

**Response:** Agree with qualification. The Government agrees that agencies need to demonstrate support for employees’ learning and development by including a strong commitment to learning and development in the corporate plan or in the whole of agency strategy and documents associated with the corporate plan. It also notes that for many agencies accredited learning is not an appropriate strategy for meeting the development needs of many of their staff and that it is important that agencies design their learning and development programs to reflect their context and business needs—this will usually involve a mix of both formal and informal development strategies.

This recommendation is consistent with the intent and practice which has been promoted to agencies over recent years, including through the MAC reports *Organisational Renewal* in 2003 and *Performance Management in the Australian Public Service: a strategic framework* in 2001 and the ANAO-APS Commission better practice guide *Building capability: a framework for managing learning and development in the APS* in 2003. The better practice guide specifically encourages agencies to identify short and long term organisational capability requirements and establish learning and development strategies and plans that are aligned with the desired agency outcomes identified in key corporate planning documents. The guide also recommends that agencies ensure appropriate budgets are made available to support learning and development, and that agencies consider the use of accredited training and opportunities for articulating learning where appropriate.

**Recommendation 18.4:** The Committee recommends that all APS agencies demonstrate continuing support for employees’ training and development aspirations by:

18.4 reporting annually to the APS Commission on progress in achieving training objectives. (Para 9.60)

**Response:** Agree with qualification. Agencies are required, through annual reports, to report on training and development outcomes and achievements. While detailed reporting and assessment of each individual agencies’ performance by the APS Commission would be inconsistent with the more devolved environment for APS agencies, the State of the Service Report will identify APS-wide trends and issues related to learning and development based on responses to its agency survey.

**Recommendation 19:** The Committee recommends that the APS Commission present a detailed report annually, as part of the State of the Service report, outlining the progress made by each agency in achieving its training objectives. (Para 9.61)

**Response:** Disagree. The State of the Service Report will include a general report identifying APS wide trends and issues related to learning and development based on responses to its agency survey. It is more appropriate that agencies provide detailed reports on their progress in achieving their learning and development objectives through their annual reports.
Recommendation 20: The Committee recommends that all agencies include in their guidelines on training management a requirement that all training programs must include an evaluation phase, timetable and methodology. (Para 10.86)

Response: Agree with qualification. The Government agrees that agencies should ensure that their guidelines for managing learning and development include a requirement that every learning and development program has an evaluation plan which outlines the evaluation methodology and timing. The ANAO–APS Commission better practice guide: Building capability: A framework for managing learning and development in the APS reinforces the need for an evaluation plan for learning and development programs. However, having an evaluation plan does not mean that it is always appropriate to have a specific evaluation phase as evaluation does not have to be separate in time and methodology from intrinsic aspects of a development program. Also, to make evaluation mandatory for all learning and development activities would be unduly onerous, costly and not necessarily useful. Factors such as cost, effort and effectiveness should be considered prior to undertaking evaluations.

Recommendation 21: The Committee recommends that agencies utilise experts with evaluation skills both in the design stage of training strategies and programs and during the post training evaluation stage. (Para 10.89)

Response: Agree with qualification. Agencies should be encouraged to develop the capabilities of staff responsible for the management of learning and development, in areas of design and conduct of evaluation, and to use experts with evaluation skills, where this is assessed as appropriate and cost-effective, in the design and/or implementation of evaluation.

Recommendation 22: The Committee recommends that agencies adopt the ANAO–APS Commission recommended minimum data set and performance indicators for training. The Committee also recommends that the APS Commission coordinate an evaluation of the effectiveness of these measures, to establish better practice principles and identify areas for refinement where necessary. (Para 10.95)

Response: Agree in principle. The APS Commission will continue to encourage agencies to monitor and collect information about the outcome achieved by both their on-the-job and off-the-job learning and development, so agencies can make value for money assessments in planning future learning and development. The response to Recommendation 16.1 refers.

The APS Commission will have discussions with the ANAO about the conduct of an evaluation of the effectiveness of agencies’ use of the ANAO–APS Commission minimum data-set and performance indicators for training, subject to availability of resources. As indicated in the Government response to Recommendation 16.2 it is proposed that this assessment of the extent to which agencies are themselves effectively evaluating their learning and development activities be considered in due course. It is intended that evaluation should move beyond the collection of data about the levels of activity in structured learning and development, and look to assess the value gained and ensure it includes development beyond off-the-job training, such as coaching and mentoring.

Recommendation 23: The Committee recommends that the Senior Executive Service in all APS agencies lead by example by undertaking training and demonstrating commitment to continuing professional development as a key factor in their employment. (Para 11.25)

Response: Agree.

Recommendation 24: The Committee recommends that the APS Commission provide greater leadership to facilitate coordinated cross-service training. Its aim should be to ensure efficiency in design and development of training programs, particularly for core APS-wide skills. (Para 11.40)

Response: Agree, noting the responsibility of agencies to recognise the value of cross-APS learning and development opportunities and take advantage of the programs on offer.

Recommendation 25: The Committee recommends that the APS Commission, in consultation with agencies, review the availability of training programs and opportunities in regional areas to
ensure consistency with those available for APS employees in urban areas. (Para 11.44)

Response: Agree with qualification. It is noted that some agencies already have established strong training programs in their regions to meet their specific business needs. It is also noted that staff in regional centres, particularly remote areas, often have different learning and development needs to agency staff in the major urban areas and that ‘consistency’ may not be always appropriate. The difficulties in managing learning and development outside the urban areas and the increased cost of its provision (due to both the lack of a critical mass of participants and the increase in indirect costs such as travel), will limit the assistance that agencies and the APS Commission can provide. Nevertheless, where requested, the APS Commission will work with agencies in regional areas to enhance the availability of learning and development opportunities.

Recommendation 26: The Committee recommends that the APS Commission increase its efforts in coordinating and facilitating delivery of cross-service APS training programs in administrative law, record keeping, financial management and freedom of information requirements. (Para 11.80)

Response: Agree with qualification. The APS Commission is proposing to offer a new series of interactive management programs that focus on project, contract, record, resource, relationship and performance management to complement existing programs. Current and continuing APS Commission programs incorporate aspects of these subject areas and complement the proposed new programs. The APS Commission also has a range of events and regular publications targeted at specific APS audience which provide avenues for focus on specific subject areas. The Integrated Leadership System, developed in consultation with APS agencies, will provide direction for further review of the suite of programs offered by the APS Commission.

It is noted that it may be more appropriate for some learning and development programs specifically in the areas of administrative law, record keeping, financial management and freedom of information requirements to be conducted by the relevant APS agencies, e.g. Attorney-General’s Department is conducting programs on Freedom of Information.

Recommendation 27: The Committee recommends that the APS Commission and APS agencies actively promote public administration as a major profession and develop measures to enhance a professional identity amongst APS employees. (Para 11.82)

Response: Agree with qualification. The Government’s support for institutions such as the Australia New Zealand School of Government demonstrate its on-going commitment to the recognition of public administration as a profession and the importance it places on developing the capabilities of future public sector leaders. It agrees there is value in considering a further role for the APS Commission, to extend the promotion of public administration as a career. Recommendation 14 also refers.

Recommendation 28: The Committee recommends that the APS Commission be given enhanced powers and responsibilities to ensure greater coordination on whole-of-service issues in recruitment and training. (Para 11.87)

Response: Disagree. The Commission does not require enhanced powers to meet its co-ordination responsibilities in implementing the Government’s response to the recommendations of the Inquiry.

Attachment A

Terms of Reference

On 21 March 2002, the following matter was referred to the Finance and Public Administration References Committee for inquiry and report.

1. That the following matter be referred to the Finance and Public Administration References Committee for inquiry and report by 12 December 2002: Recruitment and training in the Australian Public Service (APS)

2. That, in considering this matter, the Committee examine and report on the following issues:

   a. Recruitment, including
      (i) the trends in recruitment to the APS over recent years;
      (ii) the trends, in particular, in relation to the recruitment to the APS
of young people, both graduates and non graduates;

(iii) the employment opportunities for young people in the APS;

(iv) the efficiency and effectiveness of the devolved arrangements for recruitment in the APS;

b. Training and development, including

(i) the trends in expenditure on training and development in the APS over recent years;

(ii) the methods used to identify training needs in the APS;

(iii) the methods used to evaluate training and development provided in the APS;

(iv) the extent of accredited and articulated training offered in the APS;

(v) the processes used in the APS to evaluate training providers and training courses;

(vi) the adequacy of training and career development opportunities available to APS employees in regional areas;

(vii) the efficiency and effectiveness of the devolved arrangements for training in the APS;

(viii) the value for money represented by the training and development dollars spent in the APS;

(ix) the ways training and development offered to APS employees could be improved in order to enhance the skills of APS employees;

c. the role of the Public Service Commissioner pursuant to s.41 (1) (i) of the Public Service Act 1999 in coordinating and supporting APS-wide training and career development opportunities in the APS; and

d. any other issues relevant to the terms of reference but not referred to above which arise in the course of the inquiry.

Attachment B
Recent APS publications

This is a summary of publications which have become available to APS agencies during 2003 and which are designed to assist and guide them in identifying appropriate workforce strategies to meet the particular needs of their agencies, including recruitment, and learning and development strategies.

Reference is made to some of these publications in the Committee’s report and in the Government’s responses to the Committee’s recommendations.

- In February 2003, the APS Commission issued a paper Managing Succession, that encourages agencies to establish succession management initiatives, consistent with the APS Values, as one of their strategies to ensure the long-term capability of their agencies.

- A key MAC report, Organisational Renewal, published in March 2003 examines the challenges of building organisational capability by APS agencies against the background of demographic change. This report encourages agencies to undertake improved workplace planning and to develop their own strategies to retain older workers. It also encourages agencies to better manage the risk of loss of corporate knowledge and skills and to recruit and to retain more young people and graduates in the APS. Organisational Renewal identified workforce planning as involving agencies’ understanding their own workforce demographics, identifying their current and future capability requirements and implementing effective succession management. This includes understanding the attraction, retention and separation factors and trends which are relevant to their particular organisation.

- Implementing organisational renewal: Mature aged workers in the APS. This package of material, launched in November 2003, includes information provided by the Departments of Finance and Administration, and Employment and Workplace Relations, Comcare and the APS Commission. This
package is designed to assist agencies to respond to the ageing of the workforce and encourage them to develop a demographic profile of their workforce to underpin their workforce planning. It was compiled to assist APS agencies to develop strategies to retain and attract mature-aged employees.

- The better practice guide: Building capability: A framework for managing learning and development in the APS, was produced in collaboration between the ANAO and the APS Commission and released in April 2003. This guide draws from the key themes identified in the ANAO Performance audit: Management of learning and development in the Australian Public Service of June 2002 and the MAC publication Organisational Renewal. It stresses the need for alignment and integration of learning and development with other workforce planning and performance management, including recommending a ‘minimum data set’ of information that agencies need to use to evaluate the value of their investment in learning and development. The guide encourages and supports agencies in developing a more strategic approach to planning, delivering and evaluating learning and development to meet organisational goals and deliver best value for money.

- The ANAO tabled its report Managing People for Business Outcomes, Year Two in June 2003. This report assessed agency performance in people management against nine practice areas, stressing that agencies should identify those practice areas that are most critical to business, and develop appropriate performance targets and measures.

- The Get it Right Recruitment Kit for Managers, issued by the APS Commission in September 2003, is designed specifically to assist APS managers achieve high quality recruitment and selection decisions.

GOVERNMENT RESPONSE TO THE JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT—REPORT 391—REVIEW OF INDEPENDENT AUDITING BY REGISTERED COMPANY AUDITORS

Background

On 4 April 2002, the Joint Committee of Public Accounts and Audit (JCPAA) resolved to conduct a review of independent auditing by registered company auditors. The Committee tabled its report in the Parliament on 18 September 2002. The Government notes that many of the recommendations contained in the JCPAA report traverse proposals contained in the ninth discussion paper of the Corporate Law Economic Reform Program Corporate Disclosure: strengthening the financial reporting framework (CLERP 9). The Government consulted widely on the CLERP 9 policy proposals receiving over 60 submissions from interested parties. The submissions were taken into consideration throughout the drafting of the Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Bill 2003 (the bill). The bill was released for consultation in October 2003 and approximately 50 submissions were received and taken into account while finalising the bill. The bill passed through the Parliament on 25 June 2004.

The Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Act 2004 received the Royal Assent on 30 June 2004 (the CLERP Act). Most of the provisions of the CLERP Act commenced on 1 July 2004. Schedule 3 to the CLERP Act (containing the proportionate liability reforms) commenced by Proclamation on 26 July 2004. The regulations relating to the CLERP Act commenced on 9 July 2004. During the development of the CLERP 9 policy paper and the CLERP Act, the Government considered the recommendations of the JCPAA. A number of the recommendations have been taken up in the CLERP Act including Chief Executive Officer and Chief Financial Officer (CEO/CFO) sign off of financial reports, true and fair view requirements, a general requirement for auditor independence as well as proportionate liability and incorporation of auditors. The Government considered that some of the recommendations could be better implemented through other chan-
nels such as the Australian Stock Exchange (ASX) listing rules and by the Australian Accounting Standards Board (AASB).

The Government’s response to the Committee’s recommendations is as follows.

CORPORATE GOVERNANCE

Committee Recommendation 1

That the Corporations Act 2001 (the Corporations Act) be amended to require the Chief Executive Officer and Chief Financial Officer of a company to sign a statutory declaration that the company’s financial reports comply with the Corporations Act and are materially truthful and complete. This declaration must be attached to the company’s financial reports whenever they are lodged with ASIC and provided to the company’s members and the market operator pursuant to the Corporations Act.

Response

The CLERP Act amends the Corporations Act to require CEOs/CFOs to certify to the directors of a listed entity that the annual financial statements are in accordance with the Corporations Act and accounting standards and that the statements present a true and fair view.

Committee Recommendation 2

That the Corporations Act be amended to require all publicly listed companies to have an independent audit committee and the Act prescribe the minimum requirements in regard to the role, responsibilities and composition of an audit committee.

Response

The Government supports strengthening the role of audit committees but does not agree that audit committees should be mandated in the Corporations Act. The Government’s CLERP 9 policy paper proposed audit committees be mandated only for the top 500 listed companies, not all listed companies. This requirement was implemented through ASX listing rules.

The Government notes that more than 85 per cent of listed companies already have audit committees. At the smaller end of the market, flexibility is required as not all companies will be large enough to warrant the establishment of an audit committee.

Committee Recommendation 3

That the Financial Reporting Council:

• develop a set of corporate governance standards, including prescriptions for internal audit, taking primary guidance from the findings of the ASX’s Corporate Governance Council; and
• take all steps to ensure these standards be given legislative backing in the Corporations Act, as either pursuant to or mirroring section 334.

Response

Not accepted. The Government supports a co-regulatory approach and considers that some matters are better left to industry bodies to pursue. Best practice corporate governance standards have been developed by the ASX’s Corporate Governance Council and ASX listing rules continue to require listed companies to report on their performance against these standards. These include recommendations that systems be developed to identify, assess, monitor and manage risk. The standards encourage companies to have an internal audit function.

The Government does not favour giving corporate governance standards legislative backing. The co-regulatory approach will allow standards to respond flexibly to changing market circumstances and require disclosure to the market, with the market able to apply sanctions where appropriate.

The Government also notes that the Financial Reporting Council (the FRC) is not a standard setting body but rather oversees the standard setting process relating to accounting and auditing standards.

Committee Recommendation 4

That section 1288 of the Corporations Act be amended to incorporate the following principles:

• require audit firms undertaking assurance audits of publicly listed companies to submit a report to ASIC on an annual basis detailing how audit firms have managed independence issues in the preceding period and any future independence management issues that are deemed pertinent;

• provide ASIC with the authority to investigate and address independence issues arising from these reports or from other sources as ASIC considers appropriate; and

• require publication of the ASIC benchmark criteria used for determining the adequacy of the internal systems and processes of large audit firms.

Response

Not accepted. The Government notes, however, that the CLERP Act has introduced a comprehensive regime on auditor independence which incorporates the recommendations of the Ramsay Report (Independence of Australian Company Auditors) and that many of the proposals in the Ramsay Report have been endorsed by the JCPAA.

The CLERP Act has expanded the role of the FRC to monitor the effectiveness of auditor independence requirements in Australia. One of the FRC’s specific auditor independence functions in the CLERP Act is to monitor and assess the nature and overall adequacy of the systems and processes used by audit firms to ensure compliance with auditor independence requirements. The FRC is required to report annually to the Minister on its audit independence functions, including findings and conclusions that it reached in performing those functions and any action taken.

The CLERP Act includes a requirement that auditors make an annual declaration to the directors of an audit client that they have not contravened the auditor independence requirements of the Corporations Act or of any applicable code of professional conduct in relation to the audit or review.

ASIC is responsible for surveillance, investigation and enforcement of the responsibilities of companies and auditors in relation to financial reporting, including the enforcement of auditor independence requirements and Australian accounting and auditing standards.

FINANCIAL REPORTING

Committee Recommendation 5

In the process of adopting the international accounting standards by 1 January, 2005, as announced by the FRC, the AASB should ensure that those contentious issues and deficiencies identified by the Committee are resolved as a matter of priority at the earliest possible date.

Response

The AASB made Australian equivalents to International Financial Reporting Standards (IFRS) on 15 July 2004. The development of IFRS is based on the Framework for the Preparation and Presen-
tation of Financial Statements (Framework). The Framework, which is issued by the International Accounting Standards Board, underlies the principles based approach to drafting taken in the development of IFRS.

The 40 international equivalent standards made by the AASB include standards specifically addressing:

- leases;
- financial instruments, including derivatives;
- intangible assets;
- executives’ and directors’ remuneration;
- share options;
- investment properties;
- pensions or superannuation accounting; and
- accounting for the impairment of assets.

**Committee Recommendation 6**

That section 297 of the Corporations Act be amended as follows:

- add the requirements that, in undertaking the assessment of a true and fair view, directors must consider the objectives contained in section 224(a) of the ASIC Act and must include a statement in the financial report that they have done so;
- delete the current footnote that states: If the financial statements and notes prepared in compliance with the accounting standards would not give a true and fair view, additional information must be included in the notes to the financial statements under paragraph 295(3)(c).
- add the following new sub-sections:
  - In the case of conflict between sections 296 (compliance with accounting standards) and 297 (true and fair view), the notes to the financial statements must indicate why, in the opinion of the directors, compliance with the accounting standards would not give a true and fair view of the financial performance and position of the company.
  - The notes to the financial statements must include a reconciliation to provide additional information necessary to give a true and fair view.

**Response**

The Government considered that the JCPAA’s recommendations in relation to the true and fair requirements have merit and they have been implemented in the CLERP Act. The CLERP Act provides that, where compliance with accounting standards would result in the financial statements and notes together not giving a true and fair view, the directors report should set out:

- the directors’ reasons why compliance with accounting standards would not result in the financial statements giving a true and fair view; and
- the additional information and explanations needed to give a true and fair view.

Sections 298 (annual directors’ report) and 306 (half-year directors’ report) of the Corporations Act have been amended by the CLERP Act for the purpose of giving effect to the JCPAA’s recommendations.

Where an entity’s directors consider that compliance with the accounting standards would result in an entity’s financial statements not giving a true and fair view, and they include additional information in the notes to the financial statements in accordance with paragraphs 295(3)(c) (financial year) or 303(3)(c) (half-year) in order to give such a view, the directors will be required to include in their directors’ report:

- their reasons for forming the view that the additional information was needed for the purpose of giving a true and fair view in accordance with sections 297 or 305; and
- the location of the additional information in the financial report.

The Government has not accepted the JCPAA recommendation that the directors, in undertaking the assessment of a true and fair view, must consider the objectives contained in section 224(a) of the Australian Securities and Investments Commission Act 2001 (the ASIC Act). Section 224(a) of the ASIC Act relates to the framework for the development of accounting and auditing standards in Australia and has no relevance to the assessment required to be made by directors in relation to the true and fair view.
Committee Recommendation 7
It is recommended that sections 307 and 308 of the Corporations Act be amended to require the auditor to form an opinion and report on any additional disclosures made pursuant to section 297.

Response
The CLERP 9 Act adopts this recommendation.

Committee Recommendation 8
It is recommended that the ASX amend the Listing Rules to require additional reporting by companies in the following areas:

- commentary on internal control systems, including risk management processes;
- management discussion and analysis;
- commentary on the main factors affecting reported financial performance and financial position;
- commentary on the key judgments made in the application of accounting policies;
- results for a set of key performance indicators pointing to the health of the organisation; and
- details of directors’ and executives’ performance appraisal or management systems

Response
The Government considers that many of these issues are best addressed by the ASX in the first instance or, where appropriate, the accounting standards.

The Government notes however that the CLERP Act requires listed companies to include in their directors’ report an operating and financial review.

THE AUDITING FRAMEWORK

Committee Recommendation 9
That section 324 of the Corporations Act be amended by including:

- the following statement:
  The Auditor must be independent of the company in performing or exercising his or her functions or powers under this Act.
- a footnote to indicate that this statement may be interpreted by reference to the Code of Professional Conduct of the Professional Accounting Bodies.

Response
Agree in principle. The CLERP Act puts in place a general requirement for auditor independence, breach of which is a criminal offence.

The CLERP Act also requires an auditor to provide to the directors of the audit client an annual declaration that there have been no contraventions of the auditor independence requirements of the Corporations Act or of any applicable code of professional conduct in relation to the audit or review.

Committee Recommendation 10
That the following sections of the Corporations Act be amended:

- section 307 be amended to require that auditors form an opinion on whether the company has complied with corporate governance standards (see Recommendation 3);
- section 308 be amended to require the auditor to report as to whether the company has complied with corporate governance standards (see Recommendation 3); and
- section 308 be amended to require the audit report to include comment on significant matters arising during the audit process.

Response
Not accepted. As indicated in the response to recommendation 3, the Government does not support giving legislative backing to corporate governance standards. Corporate governance standards contain a range of matters outside of auditors’ expertise. Auditors are not necessarily equipped to form opinions and report on compliance with such standards. The proposal could add significantly to audit costs.

The Corporations Act already contains provisions requiring the audit report to describe any defect or irregularity in the financial report, and any shortcoming relating to whether the auditor has been given all information, explanation and assistance necessary for the conduct of the audit, or relating to the keeping of financial and other records by the company. The Corporations Act also requires the auditor to notify ASIC of a suspected contravention of the Act if it cannot be adequately dealt
with in the audit report or by bringing it to the attention of the directors. The CLERP Act expands the matters which auditors must report to ASIC to include any attempt to influence, coerce, manipulate or mislead persons involved in the conduct of the audit.

Committee Recommendation 11
That ASIC explore the costs and benefits and alternative methods of introducing performance audits in the private sector and, in conjunction with the ASX, evaluate the costs and benefits of requiring pronouncements and other disclosures under the continuous disclosure listing rule to be subject to a credible degree of assurance and report its findings to the Treasurer.

Response
Not accepted. While performance audits perform a valuable role within the public sector, difficult questions arise in relation to their application in the private sector. The Government believes that the market should determine the need for private sector performance audits, including in response to any demand from shareholders.

Performance audits are designed to evaluate outcomes and the achievement of objectives. Evidence presented to the JCPAA on this issue was mixed. For example, the ASX advised the JCPAA that they did not agree with the notion of the conduct of performance audits in the private sector saying that they believed that performance criteria for companies could not be readily developed, measured and kept current. Professor Ramsay told the JCPAA that in certain circumstances it may enhance confidence in information to have the auditor do performance audits, but he did not think that they should be mandated.

The Government believes that audit assurance of the requirements of the Corporations Act and ASX listing rules relating to continuous disclosure is unnecessary. The enforcement capacities of ASIC and ASX in this regard are considered appropriate, taking into account the Government’s strengthening of the penalty regime for continuous disclosure contraventions in the CLERP Act, including a power for ASIC to issue infringement notices, and to encourage the ASX and other market operators to provide listed entities with education and guidance to promote compliance.

The Government considers that the continuous disclosure regime has its own checks and balances.

Committee Recommendation 12
To support an expansion in the role of registered company auditors, the following reforms should be put in place to provide a greater level of protection for their personal assets:

- principle of joint and several liability replaced with the principle of proportionate liability, so as to provide a more equitable basis for allocating damages;
- amend the Corporations Act so that audit firms can operate within limited liability structures and;
- introduce a cap for professional liability claims to limit the quantum of damages which can be awarded against auditors.

Response
Proportionate liability: Agree. The CLERP Act has introduced a proportionate liability regime in respect of claims for economic loss or damage to property arising from misleading or deceptive conduct. The introduction of proportionate liability is one of the key measures on which all governments in Australia have agreed in order to improve the availability and affordability of professional indemnity insurance.

Incorporation of audit firms: Agree. The CLERP Act has established a framework for incorporation of audit firms, which was not previously allowed under the Corporations Act. Allowing auditors to incorporate addresses the concerns relating to the professional liability of auditors arising from the joint and several liability of partners of a firm. Incorporation also provides accounting firms with an additional option in terms of how they structure their operations.

Capping of professional liability: The Government has agreed to support State and Territory professional standards legislation based on the NSW legislation. The Treasury Legislation Amendment (Professional Standards) Act 2004 amends the ASIC Act, the Corporations Act and the Trade Practices Act 1974 to give effect to the Australian Government’s commitment to support the State and Territory professional standards
legislation. This Act was passed by the Parliament on 25 June 2004 and received the Royal Assent on 13 July 2004.

Committee Recommendation 13
That a framework for protected (or whistle-blower) disclosure be established in the Corporations Act. Included in this framework should be clear accountability mechanisms over the administration and management of disclosures.

Response
Agree. The CLERP Act contains provisions to amend the Corporations Act to provide qualified privilege and protection against retaliation in employment for any company employee reporting internally within a company or to ASIC, in good faith and on reasonable grounds, a suspected breach of the Corporations Act and associated legislation.

GOVERNMENT RESPONSE TO RECOMMENDATIONS OF THE PARLIAMENTARY JOINT COMMITTEE ON CORPORATIONS AND FINANCIAL SERVICES

Background
On 8 October 2003 the Parliamentary Joint Committee on Corporations and Financial Services (PJC) resolved to inquire into and report on the Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Bill 2003 (the CLERP 9 Bill). The PJC tabled its report on the CLERP 9 Bill in two parts—part 1 was tabled on 4 June 2004. Some recommendations contained in part 1 were agreed to by the Government and moved as amendments during the bill’s passage through the Parliament.

Part 2 of the PJC report was tabled on 15 June 2004. In light of the timetable for debate of the bill in the Parliament, there was insufficient time for detailed consideration of the recommendations in part 2 of the report. As a result, during the Senate debate on the CLERP 9 Bill, the Government undertook to consider the recommendations of the PJC in detail and to provide a written response following commencement of the CLERP 9 Act.

It is noted that some recommendations from parts 1 and 2 of the report were moved as amendments by the Democrats and agreed to by the Government during debate in the Senate.

The Government’s response to the Committee’s recommendations is outlined below.

Part 1—enforcement, executive remuneration, continuous disclosure, shareholder participation and other

Recommendation 1
The Committee recommends that the Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Act 2004 (the CLERP 9 Act) require corporations to establish a whistle-blower protection scheme that would both facilitate the reporting of serious wrongdoing and protect those making or contemplating making a disclosure from unlawful retaliation on account of their disclosure. The Committee refers to Australian Standard AS8004—2003 as a starting point for corporations.

Response
The Government does not accept this recommendation.

In recognition that the whistleblowing provisions apply to companies of varying size and characteristics, the CLERP 9 Act has adopted a flexible framework which does not mandate the establishment of particular systems to deal with formal complaints. Prescribing particular systems which all companies must implement in order to facilitate whistleblowing could prove to be overly rigid and unsuitable for particular companies in the Australian market.

The CLERP 9 provisions acknowledge that individual companies are best placed to determine what internal systems are most appropriate for them according to their circumstances.

Recommendation 2
The Committee recommends that CLERP 9 require the Australian Securities and Investments Commission (ASIC) to publish a guidance note designed for all companies, using AS8004—2003 as a model, to help further promote whistleblowing protection schemes as an important feature of good corporate governance.

Response
This is a matter for consideration by ASIC.
Recommendation 3
The Committee recommends that paragraph 1317AA(1)(a)(iv) read “an employee of a person who has contracted for services with, or the supply of goods to, a company”.

Response
The Government accepts this recommendation.

Prior to the passage of the CLERP 9 Act through the Parliament, the Government amended paragraph 1317AA(1)(a) in order to implement this recommendation.

Recommendations 4 - 6
Recommendation 4—The Committee recommends that the threshold test of “in good faith” be removed and replaced by “an honest and reasonable belief”.

Recommendation 5—The Committee recommends that the whistleblowing provisions should stipulate that the report must relate to “a serious offence”.

Recommendation 6—The Committee recommends that the Government give serious consideration to providing for anonymous reports. It believes that by having the requirements that a person must have an honest and reasonable belief that an offence has or will be committed and that the offence is a serious offence will represent a sufficient safeguard against frivolous or vexatious reporting.

Response
The Government does not accept these recommendations as their implementation would alter the overall whistleblowing framework within the CLERP 9 Act.

The CLERP 9 Act provides protection for officers, employees and subcontractors of a company who report suspected breaches of the Corporations Act 2001 (the Corporations Act) and the Australian Securities and Investments Commission Act 2001 (the ASIC Act) to ASIC or to specified persons within the company. As a way of minimising vexatious disclosures, the provisions require that the disclosure be made in good faith and on reasonable grounds. In addition, to promote the integrity of the whistleblowing provisions, anonymous disclosures are not permitted.

This is a package of measures which seeks to balance two competing objectives: encouraging company employees and officers to report suspected breaches of the law, while at the same time ensuring that the whistleblowing protections are not abused or used for a malicious purpose.

The CLERP 9 Act encourages the reporting of wrongdoing by prohibiting companies from victimising employees, officers or subcontractors when they report a suspected breach of the Corporations Act and related legislation in good faith and on reasonable grounds. Whistleblowers who make disclosures in accordance with the Act receive protection from criminal or civil liability and attract qualified privilege in respect of the disclosure. Requiring all disclosures to be made in good faith is designed to enhance the integrity of the system by ensuring that persons making disclosures do not have ulterior motives. Further, to attract the whistleblowing protections contained in the CLERP 9 Act, there must be a reasonable basis to suspect that a breach has been committed.

Recommendations 4 to 6 propose changes to the threshold requirements that determine whether a particular disclosure will attract the protection of the whistleblowing provisions.

Implementing Recommendation 4 would mean that the purpose or motive of the person making the disclosure would no longer be relevant. This could give rise to the possibility that a disgruntled employee might attempt to use the provisions as a mechanism to initiate an unnecessary investigation and thereby cost the company time and money.

Implementing Recommendation 5 would result in the application of the protections to disclosures that relate only to serious offences. It would prove difficult for many company employees to determine what constitutes ‘a serious offence’ and to assess whether their disclosures would attract the protections afforded by the whistleblowing protections.

Further, providing for anonymous reports as suggested in Recommendation 6 may encourage the making of frivolous reports, and would generally constrain the effective investigation of complaints. Allowing anonymity would also make it
more difficult to extend the statutory protections to the relevant whistleblower.

Overall, the Government considers that the framework in the CLERP 9 Act achieves an appropriate balance between the policy objectives and should therefore be maintained.

**Recommendation 7**
The Committee recommends that a provision be inserted in the proposed whistleblowing scheme that expressly provides confidentiality protection to persons who make protected disclosures to ASIC or to the designated authorities within a company. Similar provisions should also be inserted to protect the rights of persons who are the subjects of disclosures.

**Response**
The Government accepts the general intent of the PJC’s recommendation to provide confidentiality protection.

Under section 127 of the ASIC Act, protected information provided to ASIC must be treated confidentially. The Government considers that disclosures made to ASIC under the whistleblowing provisions will be protected from unauthorised use or disclosure by section 127 of the ASIC Act. Therefore, the Government does not consider an amendment is required to implement this aspect of Recommendation 7.

In relation to information given to designated authorities within a company, the CLERP 9 Act inserted section 1317AE in order to ensure that protected information provided to a company is treated confidentially.

**Recommendation 8**
The Committee recommends that the Government review the proposed penalty to be set down in Schedule 3 as item 338 to ensure that it is comparable with other jurisdictions and offences of a similar nature.

**Response**
The Government does not accept this recommendation.

Item 338 of Schedule 3 in the CLERP 9 Act provides that a breach of subsection 1317AC(1), (2) or (3) of the provisions attracts a penalty of up to 25 penalty units and/or 6 months imprisonment. This penalty is consistent with similar provisions contained in the Inspector General of Taxation Act 2003.

**Recommendation 9**
The Committee recommends that a provision be inserted in the whistleblowing provisions that would allow ASIC to represent the interests of a person alleging to have suffered from an unlawful reprisal.

**Response**
The Government does not accept this recommendation.

Where a company violates the whistleblowing provisions, whistleblowers are entitled to pursue compensation under the statute. Existing section 50 of the ASIC Act already provides ASIC with the ability in certain circumstances to commence civil proceedings in a person’s name to recover damages. Where it is in the public interest, this would generally permit ASIC to represent a whistleblower in a claim for damages. However, this provision would not permit ASIC to conduct a criminal prosecution or to represent a whistleblower in an action for reinstatement. The Government considers that an ability for ASIC to represent a person in this sort of action is not necessary.

**Recommendation 10**
The Committee recommends that ASIC release as soon as possible a guide that leaves no doubt that the remuneration report is to contain a discussion on the board policy for determining the remuneration of its most senior executives which is to be presented in such a way that links the remuneration with corporate performance.

**Response**
This is a matter for ASIC.

The Government notes that paragraph 300A(1)(b) of the Corporations Act, as amended by paragraph 300A(1)(ba) of the CLERP 9 Act, requires disclosure of the link between the board’s remuneration policy and company performance.

**Recommendation 11**
The Committee also recommends that regulations to be promulgated under this section adopt the direct and specific language used in the Explanatory Memorandum and not the vagueness of the wording in the bill. The Committee recommends
that regulations make clear that what must be included in the remuneration report is information “such as performance hurdles to which the payment of options or long term incentives of directors and executives are subject; why such performance hurdles are appropriate and the methods used to determine whether performance hurdles are met”.

Response
The Government does not accept this recommendation.

Paragraph 300A(1)(ba) of the CLERP 9 Act requires that where an element of remuneration is contingent on satisfying a performance condition, details of the performance condition and the methods used to determine whether performance has been met must be included in the directors' report.

Regulations made pursuant to paragraph 300A(1)(c) require additional information in respect of performance related remuneration to be disclosed. Regulation 2M.3.03 cross references relevant disclosure paragraphs of the Accounting Standard AASB 1046 Director and Executive Disclosures by Disclosing Entities, including estimates of the maximum and minimum amounts of bonuses in forthcoming financial years that could be paid under a current remuneration agreement.

The Government considers the changes recommended by the PJC are unnecessary given that section 300A, including associated regulations, requires specific disclosures in relation to performance based remuneration.

Recommendation 12
The Committee recommends that the Government review the penalty provisions for contraventions of section 300A with a view to allowing a greater degree of flexibility in applying penalties especially for offences unlikely to satisfy the test that the contravention “materially prejudices the interests of the corporation or materially prejudices the corporation's ability to pay its creditors or is serious or is dishonest”.

Response
The Government does not accept this recommendation.

The current penalties for breaches of remuneration disclosure provisions are those that apply in respect of other breaches of general purpose reporting requirements in Chapter 2M of the Corporations Act.

A breach of section 300A attracts a civil penalty where the breach is not dishonest, but the contravention either:

- materially prejudices the interests of acquirers or disposers of the relevant financial products; or
- materially prejudices the issuer of the relevant financial products or if the issuer is a corporation or scheme, the members of that corporation or scheme; or
- is serious.

In these circumstances a Court may impose a pecuniary penalty of up to $200,000. If the breach is dishonest, a fine of up to 2000 Penalty Units ($220,000) and/or five years imprisonment may be imposed pursuant to subsection 344(2).

The CLERP 9 Act also implements non-financial sanctions such as increasing directors' accountability to shareholders via the non-binding vote on the remuneration report. This is an important mechanism to lift standards within companies rather than relying merely on the imposition of financial penalties. The impact of the shareholder vote should be gauged before changes to penalties are considered.

Recommendation 13
The Committee recommends that a new sub section 300(10)(d) be inserted in CLERP 9 which would require the directors' report to include details of the qualifications and experience of each person who has held the position of company secretary during the reporting period.

Response
The Government accepts this recommendation. Amendments were made to the CLERP 9 Act to implement this recommendation.

Recommendation 14
The Committee recommends that the Government include in the Corporations Act a general principle that executive directors not be involved in
determining their own remuneration unless there are reasonable grounds for that not to occur.

Response
The Government does not accept this recommendation.

The approach adopted in the CLERP 9 Act to director and executive remuneration is to enhance disclosures made to the market to assist shareholders to hold directors accountable. The Act does not interfere with the internal management of companies.

The CLERP 9 Act requires that information on remuneration be disclosed in a remuneration report and presented to shareholders at the company AGM. This mechanism provides an avenue whereby shareholders are able to provide directors with a clear view on the appropriateness of their decisions regarding remuneration and thereby influence those decisions. The Government’s policy has not been to prohibit directors’ involvement in setting their remuneration but rather to ensure there is appropriate disclosure and accountability.

Recommendation 15
The Committee recommends that CLERP 9 be amended to include a provision that requires equity based schemes as a form of executive remuneration to be subject to shareholder approval.

Response
The Government does not accept this recommendation.

The CLERP 9 Act looks to maintain clear lines of accountability whereby shareholders set directors’ remuneration and directors are responsible for determining the remuneration of executives. The Act implemented measures to enhance the accountability of the board of directors to shareholders in respect of those decisions. The Government does not consider it appropriate to introduce more intrusive measures which would blur these lines of accountability.

In respect of executives who are also directors of a company, the Government notes that the ASX Listing Rules already require shareholder approval where directors are granted equity remuneration.

Recommendation 16
The Committee recommends that all payments made to directors be subject to shareholder resolution including payments such as the maximum annual cash payment and any retirement benefit or termination payout.

Response
The Government does not accept this recommendation.

Prior to the measures introduced in the CLERP 9 Act, shareholders already had a significant direct influence over non-executive directors’ remuneration under the Corporations Act and ASX Listing Rules.

The Corporations Act provides that directors are to be paid remuneration as determined by the company at a general meeting. This requirement is a replaceable rule. In relation to listed companies, the related party provisions of the Corporations Act require shareholder approval in order to give a financial benefit to a director. Shareholder approval is not required for ‘reasonable’ remuneration. ‘Reasonable’ is determined with reference to the circumstances of the company and the director in question, including the responsibilities of the director.

The ASX Listing Rules require shareholder approval of any increase in the total pool of directors’ fees payable to all directors. This does not apply to the salary of an executive director.

In light of the above, the Government considers that there are already appropriate mechanisms available that require shareholder approval of non-executive directors’ remuneration.

The non-binding shareholder vote introduced by the CLERP 9 Act is a powerful tool to hold directors to account for their decisions regarding remuneration.

Recommendation 17
The Committee notes the many concerns expressed about the proposed infringement notice regime. In particular, the Committee refers to the blurring of ASIC’s functions of investigator and adjudicator. In light of these concerns, the Committee recommends that ASIC’s guide on issuing infringement notices more fully explain and document the procedures it will adopt to ensure
that there is a clear and definite separation of its responsibilities to investigate and to adjudicate.

**Response**

This is a matter for ASIC.

On 20 May 2004, ASIC released Continuous disclosure obligations: infringement notices—An ASIC guide. The guide provides information to interested parties about ASIC’s general approach to the infringement notice remedy and the stages in the infringement notice process.

**Recommendation 18**

The Committee recommends that CAMAC review the operation of the infringement notice provisions two years after they come into force. It recommends further that in light of comments suggesting that ASIC is not fully or effectively using its current powers to enforce the continuous disclosure provisions that the review take a broader approach and examine the effectiveness of the enforcement regime for continuous disclosure as a whole including the criminal and civil provisions.

**Response**

The Government partially accepts this recommendation.

The Government has undertaken to review the provisions in two years. The terms of the review and the persons to undertake it will be determined at that time.

**Recommendation 19**

The Committee recommends that a three-year sunset clause relating to the infringement notice provisions be inserted in CLERP 9.

**Response**

The Government does not accept this recommendation.

The Government does not favour a sunset clause and, in the light of the response to Recommendation 18, it would be inappropriate to agree to Recommendation 19 because there is no certainty that the review, and Government consideration and implementation action, will have been completed within this timeframe.

The Government has, however, committed to reviewing the operation of these provisions after two years.

**Recommendation 20**

The Committee recommends that Treasury make the submissions it receives on the draft due diligence defence publicly available.

**Response**

The Government accepts this recommendation. The submissions are available on the Treasury website.

**Recommendation 21**

The Committee recommends that the law be amended to ensure that the voting intentions of shareholders through their proxyholder are carried out according to their instructions.

**Response**

The Government did not consider that the CLERP 9 Act was an appropriate vehicle to progress this recommendation, as it did not allow sufficient time for consultation and consideration. Issues surrounding proxy voting are being considered as part of the exposure draft Corporations Amendment Bill (No. 2) 2005, which the Government exposed for public consultation on 7 February 2005.

**Recommendation 22**

The Committee recommends that the provisions governing voting at meetings be reviewed by CAMAC with a focus on the matters that have been raised during the inquiry but which the PJC has not examined in depth, including the disclosure of voting — numbers for, against and abstentions on each resolution before the meeting.

**Response**

The Government does not accept this recommendation.

Issues surrounding proxy voting, including the disclosure of voting, are being considered in the context of the exposure draft Corporations Amendment Bill (No. 2) 2005 (see Recommendation 21 above).

**Recommendation 23**

The Committee recommends that, as best practice, institutional investors:

- include a discussion of their voting policies in their annual report which includes how they manage conflicts of interest in regard to their investments.
disclose their voting record in the annual report.

Response

The Government agrees that these issues are best dealt with through industry self-regulation. Industry guidelines, such as those issued by the Investment and Financial Services Association (IFSA) and the Association of Superannuation Funds of Australia (ASFA), are flexible enough to ensure improved disclosure without imposing unnecessary compliance costs.

The success of this approach is demonstrated by a recent IFSA survey (Shareholder Activism Among Fund Managers: Policy and Practice, 2003), which was verified by KPMG and found that 94 per cent of IFSA members have a formal voting policy.

Industry guidelines are currently moving to improve disclosure of voting record. IFSA recently released guidelines, which require disclosure of an aggregate summary of voting records. This is preferable to requiring disclosure of every resolution that an institutional investor may vote on. This approach would be costly to compile and unlikely to be of any use or comprehensible to retail members.

Recommendation 24

The Committee recommends that the 100 member rule for the requisitioning of a general meeting be removed from section 249D of the Corporations Act.

Response

The Government did not consider that the CLERP 9 Act was an appropriate vehicle to progress this recommendation, as it did not allow sufficient time for consultation and consideration. The exposure draft Corporations Amendment Bill (No.2) 2005 proposes to remove the 100 member rule from section 249D of the Corporations Act. The draft Bill was exposed for public consultation on 7 February 2005 and submissions will be accepted on proposals up until 1 April 2005.

Recommendation 25

The Committee recommends that the Government examine carefully ASIC’s submission to Treasury and its surveillance report on research analyst independence with a view to amending the provisions on managing conflicts of interest to provide clearer direction on circumstances that must be avoided and activities that must not be undertaken because of conflicts of interest.

Response

The Government does not accept this recommendation.

The CLERP 9 Act inserted an additional licensing requirement on financial services licensees to have adequate arrangements for managing conflicts of interest. The licensing requirement should ensure that there is adequate disclosure of conflicts to investors, who can then consider their impact before making investment decisions. This requirement takes effect from 1 January 2005 and will be monitored by ASIC.

On 30 August 2004, ASIC released Policy Statement 181 Licensing: Managing conflicts of interest, which provides guidance on the steps that ASIC expects licensees to take in order to comply with the licensing obligation. ASIC is currently finalising guidance on research report providers and will release this as a separate document in the near future.

The additional licensing obligation will require internal policies and procedures for preventing and addressing potential conflicts of interest that are robust and effective.

This will include ensuring that there is adequate disclosure of conflicts to investors, who can then consider their impact before making investment decisions.

It is considered that the licensing obligation to manage conflicts, along with ASIC guidance, should be sufficient to deal with any analyst conflicts of interest without the need to expressly prohibit trading by an analyst, or mandating disclosure in analyst research reports of their remuneration, interest or associations.

Recommendation 26

The Committee recommends that provisions be inserted in the Corporations Act that would require the annual report of listed companies to include a discussion of the board’s policy on making political donations.
Response
The Government does not accept this recommendation.

Issues regarding political donations would be more appropriately regulated by the current electoral legislative framework (the Commonwealth Electoral Act 1918) rather than the Corporations Act.

Information regarding political donations by companies is already publicly available from the Australian Electoral Commission.

The decision by a company to donate money to political parties, or to any recipient, is one of a commercial nature. Unless the amount to be donated is of such a scale that it may be classified as an extraordinary transaction, it will generally not be a matter for the shareholders of the company, but rather a matter for the company’s management.

Recommendation 27
The Committee recommends that the Government reinstate in the Act the requirement for listed companies to keep a public register of notices of beneficial ownership.

Response
The Government accepts this recommendation.

The PJC proposal involves reinstating a provision (as closely as possible) that was in the Corporations Law until 1996 (and before that in the Companies ([name of State]) Code), which required listed companies to include responses they receive to tracing notices in a public register. That provision was repealed by the First Corporate Law Simplification Act 1995 on the basis that the information was available from other sources, which have subsequently discontinued providing the information.

Reinserting this provision will not require the listed company or responsible entity to seek any further information (since it relates only to material already collected) and a transition period of six months is intended to give adequate time to establish the register.

This recommendation was implemented by Government amendments moved to the bill. The relevant provisions commenced on 1 January 2005.

Part 2—Financial Reporting and Audit Reform

Recommendation 1
The Committee recommends that the Chief Executive Officer (CEO) and Chief Finance Officer (CFO) sign-off requirement should be amended to accommodate practical contingencies and allow for the CEO’s and CFO’s reasonable reliance on information provided by others when making the certification.

Response
The Government does not accept this recommendation.

It is considered that the present formulation of the requirement is appropriate and that there is no need for an amendment along the lines suggested by the Committee.

To comply with the CEO/CFO sign-off requirement, it is expected that the officers occupying these positions will undertake the level of “due diligence” needed to enable them to sign the declaration to the directors. This approach is in keeping with that adopted in the ASX Corporate Governance Council guidelines.

Recommendation 2
The Committee draws the Government’s attention to the apparent inconsistency between the proposed Operating and Financial Review requirements, concise reports and AASB 1039 and recommends that the necessary amendments be made to avoid a duplication of requirements.

Response
The Government notes that the AASB announced in December 2004 that it intends to exempt listed companies from providing discussion and analysis information pursuant to AASB 1039.

Recommendation 3
The Committee recommends that where alternative accounting treatments are possible in an accounting standard, and where the alternative/s not selected could have resulted in the company recording a loss for the financial year, or substantial losses rather than gains, or have materially affected its solvency, then the reason for the choice of the more favourable alternative over the less favourable alternative must be disclosed by the external auditor.
Response
The Government does not accept this recommendation.
Disclosure of alternative accounting treatments has the potential to inject a significant degree of complexity into financial reports and has the danger of losing the key message to shareholders.
The Government notes that AASB 101 Presentation of Financial Statements will require the preparers of financial reports to disclose key decisions that are fundamental to the accounts. While these disclosures might not be as detailed as those envisaged by the Committee, they will be included in the financial statements, thus making the directors responsible for them, and they will be subject to audit, thus providing an independent assessment of the directors’ explanations.

Recommendation 4
The Committee recommends that the bill should insert a definition of “true and fair view” into the Corporations Act 2001 to clarify that its purpose is to ensure that the financial reports of a disclosing entity or consolidated entity represent a view that users of the reports (including investors, shareholders and creditors) would reasonably require to make an informed assessment of matters such as investment in the entity or the transaction of business with the entity.

Response
The Government does not accept this recommendation.
In the area of financial reporting, the expression “true and fair view” is now regarded as a term of art.
The need for a definition of the expression has been considered on a number of occasions over an extended period of time. However, there has generally been a lack of agreement on the scope of the definition.
In addition, the inclusion of a unique Australian definition of the expression (other jurisdictions also use equivalent expressions) could result in international accounting standards applying differently in Australia to the way they apply in other jurisdictions.

Recommendation 5
The Committee recommends that sections 297 and 305 of the Corporations Act should be amended:

- to provide that, in undertaking the assessment of a true and fair view, directors must consider the objectives contained in subsection 224(a) of the ASIC Act and must include a statement in the financial report that they have done so;
- to delete the footnote that states: If the financial statements and notes prepared in compliance with the accounting standards would not give a true and fair view, additional information must be included in the notes to the financial statements under paragraph 295(3)(c);
- to add new subsections for the following:
  - In the case of conflict between sections 296 (compliance with accounting standards) and 297 (true and fair view), the notes to the financial statements must indicate why, in the opinion of the directors, compliance with the accounting standards would not give a true and fair view of the financial performance and position of the company;
  - The notes to the financial statements must include a reconciliation to provide additional information necessary to give a true and fair view.

Response
The Government accepts the substance of this recommendation, and amended the CLERP 9 Bill prior to its passage through the Parliament.

Recommendation 6
The Committee recommends that the Government explore ways in which the administrative functions and statutory obligations of the Australian Accounting Standards Board and the Auditing & Assurance Standards Board can be managed so as to avoid duplication of costs and effort.

Response
The Government accepts the general intent of this recommendation.
The need to integrate the administrative functions and statutory obligations of the Australian Accounting Standards Board (AASB) and the Auditing and Assurance Standards Board (AUASB) to the maximum extent possible and to provide for
the interchange of the technical staff has been noted.

Initially, it is envisaged that the administrative staff of the AASB will also provide administrative support for the AUASB. It is also envisaged that the statutory reporting obligations of the AUASB will be covered by the preparation of a single report covering the FRC, AASB and AUASB.

More comprehensive changes to the existing administrative structures should be considered once the AASB has fully completed the transition to international accounting standards and the AUASB has reviewed the profession’s auditing standards and remade them as disallowable instruments.

Any changes to the existing administrative structures should be undertaken in consultation with the Chairmen of the FRC, AASB and AUASB and representatives of other interested stakeholder groups.

**Recommendation 7**

The Committee recommends that the Government explore ways of combining the administrative and technical teams of the Australian Accounting Standards Board and the Auditing & Assurance Standards Board to provide a working environment that meets the expectations of suitably qualified professionals.

**Response**

See the response to Recommendation 6.

**Recommendation 8**

The Committee recommends that Note 2 be deleted from proposed subsection 227B(1) of CLERP 9 so that the Auditing & Assurance Standards Board will not be required to divert resources on unnecessary work.

**Response**

The Government does not accept this recommendation.

The Government considers that the legislative framework for formulating and making auditing standards, which is based on the framework for making accounting standards, is appropriate. It is not clear how removal of Note 2 will overcome the need for the AUASB “to divert resources on unnecessary work”, as the note is a “sign-post” pointing to the provisions establishing the framework within which the AUASB is to formulate and make auditing standards.

**Recommendation 9**

The Committee recommends that the Australian Securities and Investments Commission Act 2001 should be amended to ensure that the Financial Reporting Council:

- is required to conduct its meetings in public. This should not prevent meetings occasionally being held as closed proceedings where the matters are of such sensitivity that that is appropriate.
- conducts public consultation on proposals within its functions and responsibilities that have a public interest element.

**Response**

The Government does not accept this recommendation.

The Government does not consider that legislation should mandate that the FRC hold its meetings in public. The issue of whether the FRC should conduct its meetings in public is a matter for the FRC to determine.

The Council has already taken steps—such as providing detailed bulletins on the FRC website—to increase transparency. Where possible, FRC bulletins are posted on the FRC website within three business days following the FRC meeting.

The FRC is currently conducting a review of its operations, including the need to increase the transparency of its operations, and the outcome of this review is scheduled for discussion at the Council’s February 2005 meeting.

**Recommendation 10**

The Committee recommends that urgent provision should be made for an adequately staffed and funded secretariat, independent of the Department of the Treasury and other Government departments, for the Financial Reporting Council.

**Response**

The Government does not accept this recommendation.
The FRC’s work program over the next few years is very full and it would be desirable to consider this issue once the work program has been bedded down.

The establishment by the FRC of its own dedicated Secretariat would require the FRC to be reconstituted as a body corporate. This change of status would be needed to enable the FRC to employ its own staff, engage its own consultants and operate its own bank account. These are significant changes and entail corresponding reporting obligations which would need to be considered.

**Recommendation 11**

The Committee recommends that the Australian Securities and Investments Commission Act 2001 should be amended so that members appointed to the Financial Reporting Council must have knowledge of, or experience in, business, accounting, auditing or law; or can demonstrate a sufficient involvement in the investment community or interest in corporate reporting to bring a user’s perspective to the Council.

**Response**

The Government does not accept this recommendation.

The ASIC Act does not prescribe qualifications for members of the FRC. This is in keeping with the Government’s view that the FRC is primarily a representative body.

The members of the FRC are drawn from nominations from:
- The professional accounting bodies;
- Users, preparers and analysts of financial statements;
- Governments and public sector entities; and
- Bodies, such as the ASIC and the Australian Stock Exchange.

Notwithstanding the absence of legislative requirements concerning qualifications for members of the FRC, when the Government is making appointments to the FRC, the Government has regard to the skills of individuals nominated by the stakeholder groups and the contribution each individual could make to the work of the Council.

**Recommendation 12**

The Committee recommends that the membership mix of the Financial Reporting Council should be evenly weighted between preparers of financial statements; accountants and auditors; and business and public interest representatives and users.

**Response**

The Government does not accept this recommendation.

The need for changes to the membership structure of the FRC will be considered by the Government after the new functions introduced by the CLERP 9 Act are fully implemented.

**Recommendation 13**

The Committee recommends that the Government should confirm that it will provide the funding for the Financial Reporting Council, the Australian Accounting Standards Board and the Auditing & Assurance Standards Board on a permanent basis beyond 2004-05.

**Response**

The 2004-05 Budget indicated that funding will be reviewed in the 2005-06 Budget context. Additional funding of $4.8 million per annum for 2005-06 to 2007-08 has been set aside in the contingency reserve pending further consideration being given to the ongoing funding of the FRC and the need for any cost recovery beyond the current Budget year.

**Recommendation 14**

The Committee recommends that the bill should be amended so that the Financial Reporting Council will not have a function of ‘determining the Auditing & Assurance Standards Board’s (AUASB’s) broad strategic direction’. Instead, the Financial Reporting Council should produce and make public its critique of the AUASB’s strategic direction as part of the Financial Reporting Council’s oversight function.

**Response**

The Government does not accept this recommendation.

The purpose of the FRC is to provide practical business direction to the technical accounting and auditing standard setters.
Users and preparers of financial reports may efficiently critique the strategic direction of the AUASB on their own. The FRC provides a focal point for stakeholders in accounting/auditing standard setting to be directly involved in the priorities of the accounting/auditing standard setter.

Oversight of the AUASB by the FRC has been modelled on the FRC’s oversight of the AASB. The strategic oversight function in respect of the AASB was introduced in the Corporate Law Economic Reform Program Act 1999 (CLERP Act 1999).

Continuing to allow strategic directions issued to the AUASB by the FRC will ensure its long term operational planning is taken from a broad public interest perspective.

Recommendation 15
The Committee recommends that the bill should be amended so that the Financial Reporting Council will not have a function of ‘approving’ the AUASB’s priorities, business plans and budgets. Instead, the Financial Reporting Council should produce and make public its critique of the AUASB’s priorities, business plans and budgets.

Response
The Government does not accept this recommendation.

This is out of step with overseas practice (for example, Canadian oversight bodies have similar functions to those proposed for the FRC).

The Australian National Audit Office provides statutory and performance audits of Government instrumentalities. It is unnecessary for the FRC to duplicate this role.

Under the Commonwealth Authorities and Companies Act 1997, the FRC’s members are the board of directors of the AUASB. The FRC cannot function as a board if it does not have authority over the priorities, business plan and budget of that body.

Recommendation 16
The Committee recommends that the Australian Securities and Investments Commission Act 2001 should be amended so that the Financial Reporting Council will no longer have a function of ‘determining the Australian Accounting Standards Board’s (AASB’s) broad strategic direction’. Instead, the Financial Reporting Council should produce and make public its critique of the AASB’s strategic direction as part of the Financial Reporting Council’s oversight function.

Response
The Government does not accept this recommendation.

The purpose of the FRC is to provide practical business direction to the technical accounting and auditing accounting standard setters. Users and preparers of financial reports may efficiently critique strategic direction of the AASB on their own. The FRC provides a focal point for stakeholders in accounting standard setting to be directly involved in the priorities of the accounting standard setter.

The strategic oversight function in respect of the AASB was introduced in the CLERP Act 1999.

Continuing to allow strategic directions issued to the AASB by the FRC will ensure its long term operational planning is taken from a broad public interest perspective.

Recommendation 17
The Committee recommends that the Australian Securities and Investments Commission Act 2001 should be amended so that the Financial Reporting Council will no longer have a function of ‘approving’ the Australian Accounting Standards Board’s (AASB’s) priorities, business plans and budgets. Instead the Financial Reporting Council should produce and make public its critique of the AASB’s priorities, business plans and budgets.

Response
The Government does not accept this recommendation.

This is out of step with overseas practice (for example, Canadian oversight bodies have similar functions to those proposed for the FRC).

The Australian National Audit Office provides statutory and performance audits of Government instrumentalities. It is unnecessary for the FRC to duplicate this role.

Under the Commonwealth Authorities and Companies Act 1997, the FRC’s members are the board of directors of the AASB. The FRC cannot
function as a board if it does not have authority over the priorities, business plan and budget of that body.

**Recommendation 18**

The Committee recommends that the professional accounting bodies should liaise with the Australian Securities and Investments Commission (ASIC) to ensure that their complaints-handling procedures meet benchmarks which ASIC considers are necessary for effective complaints handling.

**Response**

This is a matter for ASIC and the professional accounting bodies.

The FRC will have a new responsibility to monitor disciplinary procedures of the professional accounting bodies to the extent they apply to auditors and advise Government. If there are concerns about the practices of the professional bodies regarding their disciplinary arrangements there is always the scope for the FRC to advise the Government or the bodies themselves on how those arrangements could be changed or improved.

ASIC has its own powers to prosecute auditors for breaches of the Corporations Act. These powers include referring matters to the Companies Auditors and Liquidators Disciplinary Board.

**Recommendation 19**

The Committee recommends that the bill should be amended to ensure that the new responsibilities for the Financial Reporting Council should not come into force until:

- the Financial Reporting Council has an adequately staffed and funded secretariat that is independent of the Department of the Treasury and other Government departments; and
- the Government confirms that the Financial Reporting Council will be government-funded beyond 2004-05.

**Response**

The Government does not accept this recommendation.

The Commonwealth Government contributes $2.5 million per annum to the costs of Australian accounting standard setting. In addition, the 2003-04 Budget allocated an additional $4 million over 4 years. The 2004-05 Budget committed $3.4 million in the current Budget year. Ongoing funding for the FRC will be considered in the 2005-06 Budget, however contingency funding until 2007-08 of $4.8 million per annum for the FRC has been set aside if required.

The current Budget funding arrangements are sufficient for the FRC, AASB and AUASB to carry out their functions pursuant to the Corporations Act and the ASIC Act (as amended by the CLERP 9 Act).

The location and composition of the FRC Secretariat are matters that are appropriately dealt with after the FRC has had an opportunity to fully implement its expanded role under the CLERP 9 Act.

Legislative changes would be required to establish the FRC as a body able to engage its own staff. Any delay in implementation of the FRC’s role in relation to auditor independence or Auditing Standard setting is undesirable.

The FRC’s current work program is extensive; any delays due to restructuring may have a negative impact on the FRC’s access to international networks and relationships with stakeholders.

**Recommendation 20**

The Committee recommends that an auditor attending the annual general meeting of an entity should be required to answer shareholders’ reasonable questions about:

- critical accounting policies adopted by management and the basis upon which the financial statements were prepared; and
- the auditor’s independence.

**Response**

The Government partially accepts this recommendation.

During debate in the Senate, the Government agreed to amendments to subsection 250T(1) moved by the Australian Democrats which requires the chairman of the AGM to allow shareholders to ask the auditor questions “relevant to the conduct of the audit, the preparation and content of the auditor’s report, the accounting policies adopted by the company in relation to the preparation of the financial statements, and the
independence of the auditor in relation to the conduct of the audit”. The new paragraph 250T(1)(b) also requires the chairman of the AGM to allow the auditor a reasonable opportunity to answer written questions submitted to the same effect under proposed section 250PA.

The provisions do not place a direct obligation on the auditor of a company but instead maintain the current framework whereby the obligation is placed on the chairman of the AGM to allow the auditor to answer reasonable questions about the subject matter.

**Recommendation 21**

The Committee recommends that the chairman of an entity should allow shareholders a reasonable opportunity to ask the auditor questions about:

- critical accounting policies adopted by management and the basis upon which the financial statements were prepared; and
- the auditor’s independence.

**Response**

The Government accepts this recommendation. This recommendation was incorporated into the legislation by an amendment to subsection 250T(1) moved by the Australian Democrats during debate in the Senate. The amendment requires the chairman of the AGM to allow shareholders to ask the auditor questions “relevant to the conduct of the audit, the preparation and content of the auditor’s report, the accounting policies adopted by the company in relation to the preparation of the financial statements, and the independence of the auditor in relation to the conduct of the audit”.

**Recommendation 22**

The Committee recommends that an auditor attending an annual general meeting should be permitted to table written answers to shareholders’ questions which have been lodged in accordance with proposed section 250PA of the bill if the auditor has prepared answers in this form.

**Response**

The Government does not accept this recommendation. The Government does not consider that a legislative amendment is required to implement this proposal. The Corporations Act does not prevent the auditor from tabling written answers to shareholders’ questions which have been lodged in accordance with section 250PA.

**Recommendation 23**

The Committee recommends the deletion of the provision in the bill (proposed section 324CK) prohibiting more than one former audit firm partner or audit company director from becoming an officer of the audited body.

**Response**

The Government does not accept this recommendation. Section 324CK implements the recommendation of the HIH Royal Commission that a prohibition be introduced preventing more than one former partner of an audit firm, or director of an audit company, at any time becoming an officer of an audit client while the audit firm or audit company is the auditor of the client.

The Government considers that the multiple former audit partners issue was a major failing in the HIH context which the Royal Commission concluded had led to the perception that the independence of the auditors of HIH was compromised.

**Recommendation 24**

The Committee recommends that purposive definitions for “lead auditor” and “review auditor” should be adopted to reflect the rationale underlying the rotation requirements. In particular, the Committee recommends that the definition of “review auditor” should be amended to ensure that a rotation obligation will not apply to a review auditor in circumstances where:

- the review auditor performs a merely technical role in the audit; and
- the review auditor’s contact with the audit client could not be regarded as material to the day-to-day conduct of the audit as a whole.

**Response**

The Government does not accept this recommendation. The extent to which a “review auditor” is involved in an audit will vary greatly from case to case.
case and determining where it constitutes “a merely technical role” or where contact with the client is not “material” may be difficult to determine in practice.

Review auditors are a critical part of the audit process and there is the potential for conflicts of interest to arise between the review auditor and the client which may give rise to concerns about independence. The HIH Royal Commission recommended that the rotation provisions be applied not only to the lead and review partners but also to key senior audit personnel. The Act does not extend the rotation requirements to key senior audit personnel due to concerns that it could effectively require audit firm rotation in some circumstances. However the rotation of the review as well as the lead auditor is appropriate as it is these parties who are responsible for forming the final opinion on the financial statements of the client.

ASIC will have the ability to defer the rotation requirement from five to up to seven years in cases where the rotation requirements are onerous on a company or auditor.

Recommendation 25
The Committee recommends that the bill should be amended so that the rotation requirements only apply to the top 300 listed entities by market capitalisation. In arriving at this cut-off point, the Committee took into account the various suggestions made by witnesses and the statistics provided by The Institute of Chartered Accountants in Australia on the auditing market in Australia.

Response
The Government does not accept this recommendation.

Most of the auditor independence requirements are to apply to all listed companies on the basis that such companies are seeking capital from the general public.

Limiting the proposal to the top 300 companies is somewhat arbitrary and there would be “boundary issues” in dealing with companies that move in and out of the top 300 while a particular auditor had responsibility for the audit. The complexity of such a rule would make it difficult to apply in practice.

Recommendation 26
The Committee recommends that amendments should be made to the bill to accommodate short-term postponement of rotation by the Australian Securities and Investments Commission if this is not already provided for elsewhere in the Corporations Act 2001.

Response
The Government does not accept this recommendation.

Subsection 342A of the CLERP 9 Act allows ASIC to postpone the rotation requirements so that rotation will be required after six or seven rather than five successive years, where the auditor or the company makes a written application to ASIC.

Recommendation 27
The Committee recommends that the relevant provisions with respect to the registration of an authorised company auditor be amended to remove the Australian Securities and Investments Commission’s power to impose restrictions and conditions retrospectively and to limit the exercise of its discretion in this regard by the prescription of appropriate criteria.

Response
The Government does not accept this recommendation.

Section 1299D of the Corporations Act provides that ASIC may impose conditions on the registration of an authorised audit company at the time the company is registered or subsequent to registration. Any conditions imposed by ASIC on an authorised audit company would only operate prospectively.

It is important that ASIC should have the power to impose conditions on an audit company’s registration to ensure that ASIC can fulfil its regulatory responsibilities. ASIC’s flexibility to impose conditions should not be fettered, having regard to the wide range of circumstances that may apply.

Recommendation 28
The Committee recommends that:

- Some of the members from the accounting profession should be appointed to the Com-
Companies Auditors and Liquidators Disciplinary Board (CALDB) on an individual basis rather than as representatives of a professional association;

- Auditors and/or liquidators should be included in the selections from the accounting profession; and
- Consideration should be given to including users of financial reports appointed from the public, private and not-for-profit sectors.

**Response**
The Government generally does not accept this recommendation.

The CLERP 9 Act amendments looked to address concerns about the CALDB’s operational capacity and perceived independence from the accounting profession by expanding the composition of the Board.

In relation to the proposed structure of appointments involving members of the accounting profession, the current framework already existing within the ASIC Act is generally being retained.

It is understood that many auditors and liquidators would be members of the two primary professional accounting bodies and so would be eligible to be chosen as nominees of those bodies.

Additionally, the CLERP 9 Act’s amendments to the CALDB provisions, which provide for the appointment of business members, would be broad enough to allow for the appointment of users of financial reports where appropriate.

**Recommendation 29**
The Committee recommends that the role of the Financial Reporting Panel (FRP) should be restricted to making determinations on financial reports after their publication. The Committee does not support proposals for the FRP to have a “pre-publication” jurisdiction.

**Response**
The Government accepts this recommendation. This position is currently reflected in the CLERP 9 Act.

**Recommendation 30**
The Committee recommends that lodging entities should be able to refer matters to the FRP without having to obtain the consent of the ASIC.

In particular, the lodging entity should be subject to the same notification procedures (amended as appropriate) that presently apply when ASIC refers a matter to the FRP.

**Response**
The Government does not accept this recommendation.

Given that a company’s interests will be affected by a decision of the FRP and in light of stakeholders’ submissions, the draft CLERP 9 Bill was amended to provide that once ASIC has informed a company that its financial report does not comply with the financial reporting requirements, the company may, with ASIC’s consent, refer the matter to the FRP.

Requiring ASIC’s consent for a referral will prevent vexatious referrals and ensure that the FRP is not used to frustrate or delay the regulator’s ability to instigate legal proceedings where appropriate.

**Recommendation 31**
The Committee recommends that CLERP 9 should clarify that the determinations of the FRP should not have a wider application as precedents for the interpretation of financial reporting requirements.

**Response**
The Government does not accept this recommendation.

The FRP will consider specific matters referred to it on a case by case basis. While the determinations of the FRP will not act as binding precedents for the interpretation of financial reporting requirements, it is expected that the FRP’s determinations will provide useful guidance for the application of accounting standards at a domestic level. Further, in making its determinations, it is expected that the FRP will have regard to any interpretations issued by the International Financial Reporting Interpretations Committee.

**Recommendation 32**
The Committee recommends that an auditor should be entitled to attend the proceedings of the FRP if the financial reports audited by that auditor are in dispute. The Committee recommends that the auditor should have rights to be notified of a referral, to have its response included with
the ASIC’s referral and to make submissions to the FRP.

Response
The Government does not accept this recommendation.

The primary purpose of the FRP is to resolve disputes between ASIC and companies concerning the application of accounting standards in companies’ financial reports. Given that it is these entities that are the parties to the dispute, it is appropriate that companies be notified of a referral and be permitted to make submissions in FRP proceedings. It would, however, be open to companies to request the attendance of their auditors at proceedings.

Recommendation 33
The Committee recommends that the Government should amend CLERP 9 to require the FRP to provide a copy of its determinations including reasons for these determinations to the AASB.

Response
The Government does not accept this recommendation.

The CLERP 9 Act states that the FRP must provide its report to ASIC and the company, who are the relevant parties to FRP deliberations. ASIC must then take reasonable steps to publicise the FRP’s report. Additionally, if the disputed financial report is that of a listed company or listed registered scheme, the FRP must also provide its report to the relevant market operator. It is considered that these requirements in the Act provide an adequate avenue for relevant stakeholders to be apprised of the FRP’s decisions.

Recommendation 34
The Committee recommends that the provisions in CLERP 9 under which auditing standards will be disallowable instruments should not be proceeded with until a thorough review determines how legislative backing can be achieved without threatening international convergence and audit quality. Once these issues are resolved, the Committee would support the conferral of legislative backing on auditing standards.

Response
The Government does not accept this recommendation.

The Government considers that this initiative will significantly lift the rigour of auditing in Australia. The FRC is currently considering the strategic direction of audit standard setting and in this context will consider international convergence issues.

Corporations and Financial Services Committee: Joint
Report: Government Response
Senator CHAPMAN (South Australia) (3.55 p.m.)—by leave—I move:
That the Senate take note of the document.

The government’s response to parts 1 and 2 of the report of the Parliamentary Joint Committee on Corporations and Financial Services, which I chair, on the CLERP 9 bill, dealing with audit reform and corporate disclosure, is a bit like the curate’s egg: it is good in parts. The government accepted some of the recommendations from the committee and incorporated those amendments at the time the legislation was debated. Other recommendations are the direct responsibility of the Australian Securities and Investments Commission and that has been noted by the government in its response. I will certainly ensure that the committee take up those recommendations with ASIC. The government has agreed also to consider other of our recommendations in the context of the current draft exposure of the corporations amendment bill, and I look forward to the government incorporating those recommendations in that particular legislation.

In the case of some of the recommendations which the government has rejected, I can certainly accept the government’s arguments for rejecting them. For others I believe there is probably a 50-50 case for the government’s reasons for rejecting those recommendations as opposed to the committee’s original reasons for making the recommendations. Certainly in these circumstances I am not unduly fussed by the government’s
rejection of those recommendations. However, this still leaves a number of recommendations made by the committee but rejected by the government where I believe the government’s reasoning does not stand up to close scrutiny in the light of the evidence garnered by my committee and the consequent reasons for our recommendations.

These rejections have a bit of an ivory tower feel about them. For example, recommendation 11 in part 1 of our report related to the need for direct and specific rather than vague language in regulations regarding remuneration determination disclosure when those regulations are promulgated. For the life of me, I fail to understand why the government would reject such a recommendation. The government’s response refers to the requirements of the legislation, which is all well and good, but that still does not preclude the need for clear language.

The government’s rejection of recommendation 14 is also disappointing. As a general principle I believe it is not appropriate that executive directors be involved in determining their own remuneration. It is a clear conflict of interest. Determination of remuneration for executive directors should be the role of non-executive directors of a company to decide. I also disagree with the government’s rejection of our recommendation 15 in relation to equity based remuneration. Equity based remuneration has the capacity to dilute shareholders’ equity in a corporation. Therefore, I believe—as does the committee, because we made this recommendation—that shareholders should have a say in the provision of such schemes, whether those schemes relate to directors or executives.

With regard to part 2 of our report, I remain of the view that the CLERP 9 chief executive officer and chief financial officer sign-off requirements are excessively stringent and I am disappointed by the government’s rejection of our first recommendation in the second part of our report. Also, I note the government’s view regarding our recommendation on having a ‘true and fair view’ definition. Nevertheless, I believe that an appropriate definition is needed and should be achievable.

Recommendation 8, regarding the deletion of note 2 of subsection 227B(1) of the bill, was based directly on evidence from the AUASB itself and is particularly relevant in the light of Australia’s adoption of international accounting standards. The government should have accepted this recommendation. The government’s rejection of recommendation 9—that the Financial Reporting Council hold its meetings in public, with a proviso for closed meetings where sensitivity demands it—is also disappointing. I do not accept that this is a matter for the Financial Reporting Council itself to decide. Transparency is an important principle of good governance and should be mandated in this situation.

The government’s failure to accept our recommendation 10 for an independent secretariat for the Financial Reporting Council is also disappointing. The reasons provided are unconvincing. If anything, the projected heavy workload for the Financial Reporting Council reinforces the need for it to have its own secretariat independent of the Department of the Treasury. The government’s refusal to accept various of our recommendations to ease the requirements in the legislation regarding former auditors and auditor rotation is unrealistic. I certainly understand the government’s concern regarding issues related to the HIH collapse. However, I doubt that, had these particular provisions previously been in place, they would have prevented that disastrous event. The clear evidence before the committee was that the provisions are unduly onerous. In particular, I am concerned that the proposals will reduce
competition among auditing firms and be especially detrimental to the audit practices of small and middle-tier firms.

In conclusion, therefore, I urge the government to reconsider its position on these particular recommendations which it has rejected. They were made on the basis of careful consideration of the evidence before the committee and of the likely real-world effects of the legislation. I believe they should have been accepted.

Senator WONG (South Australia) (4.01 p.m.)—I rise to speak on the motion of Senator Chapman to take note of the government’s response to the committee’s report. Surprisingly, I agree with much of what Senator Chapman has to say in relation to the government’s response to the recommendations of the Parliamentary Joint Committee on Corporations and Financial Services. There were a great many recommendations made by this committee in the context of the CLERP 9 bill. By rough calculation, I think 40 of those recommendations have been rejected by the government, eight were accepted, a number were deferred or put on a ‘wait and see’ basis, and, as Senator Chapman has to say in relation to the government’s response to the recommendations of the Parliamentary Joint Committee on Corporations and Financial Services. There were a great many recommendations made by this committee in the context of the CLERP 9 bill. By rough calculation, I think 40 of those recommendations have been rejected by the government, eight were accepted, a number were deferred or put on a ‘wait and see’ basis, and, as Senator Chapman has indicated, two have been included in the draft bill which has been put out for consultation.

We on this side of parliament are very concerned by the government’s failure to deal with many of the recommendations of the committee. We believe that these issues have been on the table for some time and the government’s failure to deal with them leaves significant gaps in the regulatory framework. Many of these recommendations were very sensible. Many of these recommendations were recommendations that Labor supported. There were some recommendations where we clearly had a different view, but we are surprised that the government has not even gone for the recommendations proposed by the committee which were, from Labor’s perspective, perhaps a softer option than the recommendations that Labor put up.

One of the areas of particular concern for us is the area of executive remuneration. I wholeheartedly agree with Senator Chapman’s views about some of the government’s thinking, as indicated in the response to this report—in particular, recommendations 10 and 11, which were directed at trying to improve disclosure of the link between executive remuneration and company performance. We are disappointed that that has not been taken up by this government. We find the government’s reasoning in relation to this to be quite obtuse as set out in the report. It seems to us that if it is the policy and legislative position that there should be an appropriate link between company performance and executive remuneration then surely the sorts of things which are referred to in recommendation 10, which recommends that ASIC release a guide about disclosure, and recommendation 11, which deals with the regulations associated with that disclosure of the link between company performance and remuneration, are appropriate. It is not good enough for the government to simply say, ‘We have a broad requirement for this in the legislation, and that is sufficient.’

What is perhaps one of the worst rejections contained in the government’s response to the report was also raised by Senator Chapman. That is the recommendation that, as a general principle, executive directors not be involved in determining their own remuneration. It is quite extraordinary that this government is defending the right of directors to set their own remuneration packages. That is clearly a conflict of interest. I note also that the committee report did in fact allow for an out. It said that, if there were reasonable grounds for a director to set their own remuneration or to be involved in de-
termining their own remuneration, then the prohibition should be drafted so as not to extend to that person. The recommendation itself said that, unless it is not reasonable for you to do so, you should not be involved in setting your own remuneration. So there was an out.

What does the government’s failure to pick up this recommendation mean? Essentially, it means that this government stands for the right of an executive director to be involved in determining their own remuneration, even if there are not reasonable grounds for them to do so. That is what this government stands for: the right of an executive director to be involved in determining their own remuneration, even if there are not reasonable grounds for that to occur. It is an extraordinary position, and I concur wholeheartedly with the chair of this committee about the government’s reasoning on this issue.

It is unfortunate that, in the area of executive remuneration, the government has rejected a number of recommendations that essentially set control and a framework around executive remuneration. Another obvious example of that is recommendation 16, which went to a requirement that payments to directors on retirement or termination should be subject to shareholder resolution. That was not accepted by the government. What that means is, again, less accountability of directors to shareholders. It means that shareholders do not have a say in maximum annual cash payments and any retirement benefits or termination payouts of directors. That is a very unfortunate situation. It seems rather bizarre that the government has refused to put this in. I have read its response where it tries to justify the nonacceptance of this recommendation, and I fail to understand the reasoning behind it. It would seem very sensible to ensure that shareholder resolution on issues such as a termination payment should occur.

In Australia we have had, over some years, examples of inappropriate termination payments to directors. It was in part as a response to the sorts of payments received by George Trumball at AMP or Frank Cicutto at the NAB, which were $13.2 million and $14 million respectively, that the government in fact moved in CLERP 9 to deal with the issue of termination payments. Now the issue has gone politically quiet and we see the government backing away, refusing to deal with an issue that has policy importance, refusing to ensure that shareholders have some say and refusing to ensure that there is sufficient accountability by directors to their shareholders.

It is another example of the government talking up an issue but not actually doing very much about it. I recall the financial press quoting the Treasurer when the last reporting period finished, where the Treasurer was critical of some of the remuneration packages of executives of Australia’s listed companies. In this report we see that the government is simply refusing to accept recommendations for positive changes to the framework. It is refusing to ensure that the framework requires accountability and a bit of a check on executive excess and directors’ excess. That is what is required and that is what is missing in the government’s response.

In the time I have left I will very briefly refer to two other areas where Labor have some significant concerns about the government’s response. One is in relation to analysts’ independence. Recommendation 25 of the committee’s report dealt with the independence of analysts. Labor, in fact, recommended in our minority report what we consider to be a more stringent position than the committee’s recommendation. We are of the
view that a hands-off and a self-regulatory approach in the area of analysts’ independence is inappropriate. This is important in terms of the integrity of the information received by the markets, and it is unfortunate the government is squibbing on this issue. The majority committee report, which, on the issue of analysts’ independence, again was not as stringent as where Labor cast itself, has not been accepted by the government. The government has said it thinks the financial services reform changes, including financial services licences, are sufficient regulation on this issue. We do not agree with that. We retain our concerns that the current regulatory framework, insofar as it relates to analysts’ independence, is inadequate.

My final point was mentioned briefly by Senator Chapman. It is in relation to the Financial Reporting Council and the 13 recommendations, I think it was, relating to the improvement of the functioning and transparency of the FRC. All of these were rejected or deferred, despite substantial feedback from industry and business, during the inquiry process, about the importance of reform in this area. In the context of our more recent inquiry into international financial reporting standards, the issue of the functioning of the FRC was again raised. It is very unfortunate from Labor’s perspective that some of the useful recommendations, which were contained both in the majority report and obviously in Labor’s minority report, to improve the transparency, the integrity and the functioning of the FRC have not been taken up by the government.

Debate (on motion by Senator Bartlett) adjourned.

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**DOCUMENTS**

**Auditor-General’s Reports**

*Report Nos 37 and 38 of 2004-05*

**The ACTING DEPUTY PRESIDENT**

(Senator Cherry)—In accordance with the provisions of the Auditor-General Act 1997, I present the following reports of the Auditor-General:

- Report No. 37 of 2004-05—*Business support process audit—Management of business support service contracts*; and
- Report No. 38 of 2004-05—*Performance audit—Payments of goods and services tax to the states and territories.*

**CRIMINAL CODE AMENDMENT (TRAFFICKING IN PERSONS OFFENCES) BILL 2004 [2005]**

**Report of Senate Legal and Constitutional Legislation Committee**

**Senator McGAURAN** (Victoria) (4.12 p.m.)—At the request of the Chair of the Legal and Constitutional Legislation Committee, Senator Payne, I present the report of the committee on the Criminal Code Amendment (Trafficking in Persons Offences) Bill 2004 [2005], together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

**Senator LUDWIG** (Queensland) (4.12 p.m.)—by leave—I move:

That the Senate take note of the report.

I rise today to speak on the Senate Legal and Constitutional Legislation Committee report on the Criminal Code Amendment (Trafficking in Persons Offences) Bill 2004 [2005]. There are very good reasons for this legislation, and that is why Labor has supported the general intent of this bill from day one. The bill is intended to fight crime. As a result of a world that has become increasingly interconnected, there has been a huge increase in the amount of people, money and goods crossing
national borders over the last 50 years. Trade, investment and tourism have expanded in this country as a result of these changes. While traders, investors and tourists have not been slow to capitalise on more open arrangements, it is also true that criminals have not been slow either.

To combat this growing phenomenon of transnational crime, in 2000 the United Nations adopted a Convention against Transnational Organised Crime, which was supplemented by the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. Australia signed this UN convention in late 2000 and the convention entered into force generally in 2003. After a national interest analysis had been performed on the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Australia signed up to that as well in late 2002. The government has indicated its intention to ratify the protocol once legislation is in place to meet the protocol. Of course, before it can do that, it has to ensure that our laws against trafficking in persons meet the requirements of the protocol. That is what this bill is all about. It is aimed at meeting Australia’s obligations under the protocol.

However, the UN is not the sole promoter of the law in this regard. The second source of the law comes from antislavery legislation. It is worth taking a minute to reflect on the fact that it was 200 years ago this year, in 1805, that the British House of Commons passed the first antislavery bill. Although that bill was subsequently rejected, a similar bill was passed and adopted in 1807. Australia inherited its antislavery legislation from that source. In fact the current criminal provisions that exist in the Criminal Code date from as recently as 1999 and stem from a Law Reform Commission recommendation to replace the old imperial legislation with modern statutes. As a result of the 1999 legislation, there is already a regime in the Criminal Code that deals with trafficking in persons. But this bill will improve these measures and, if the government adopts the committee’s recommendations, we will have good law for the law enforcement agencies to use to fight against those who traffic in women and children.

I will talk briefly about some of the recommendations from the committee report. The committee has made 12 recommendations, all of which were supported unanimously. It is not my intention to go through each and every one of those today, but I would like to point out some of the key points One of the key findings of the committee is that the bill as it stands does not appear to be successful in meeting articles 3 and 5 of the UN protocol, which require the criminalisation of the conduct. That is more than a little disappointing given it is the whole reason for the bill. In any case the protocol has been assessed in the national interest analysis as being in the national interest, so it is clear we need to act in the national interest and ensure the bill does meet the protocol. That is exactly what the committee has sought to do in this process and the first way to do that, according to the recommendations, is to remove the reference to ‘consent’ from subsections 271.2(1) and 271.5(1).

I will not go to any of the detail within the bill because we can deal with that in the second reading debate. The committee found that the inclusion of the word ‘consent’ in these provisions is redundant. At the least it is counterproductive and at the worst it may have the potential to unnecessarily limit the scope of those offences. Moreover, the dependency of these provisions on consent is, in and of itself, inconsistent with the UN protocol. For this reason, the committee recommended the government remove ‘consent’ from that definition.
There is a second recommendation made by the committee that also concerns these two subsections in particular, and that is for the provisions to be dependent on exploitation, and for this to be included in the definition. It was only after careful consideration that the committee made this recommendation. My own original concern was that it was like the issue of consent I just mentioned: adding qualifications to the definition—in this case exploitation—tends to limit its application. Labor wanted to ensure that our Customs, Immigration and police officials have the legislative tools necessary to combat traffickers in person in every conceivable form. But it appears that general offences against people smugglers are already covered by the provisions that cover the trafficking of unauthorised arrivals under the Migration Act. So the general offence relating to smuggling or trafficking in persons is unlawful and already adequately covered in legislation. What is missing is exploitation-specific offences that relate to both lawful and unlawful entry. Further, the UN protocol specifically calls for the criminalisation of exploitative offences, not just general offences. The committee has made a recommendation to ensure the bill includes the element of a purpose of exploitation.

The third recommendation of the committee also relates to these two subsections and it recommends stating that these provisions apply to each of the means of trafficking listed in the definition of ‘trafficking in persons’ contained in article 3(a) of the UN protocol. This means things like the abuse of power or a position of vulnerability, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person and other forms of coercion should be included within it. It is a worthy end to include these meanings because we want to be sure the provisions have maximum applicability. Although there are several other recommendations that deal with the legislative specifics, I do not want to go to all of them, and will just leave it at those one or two that are cogent.

On the broader recommendations: the committee’s findings are that the Commonwealth’s consultative process was woeful. I want to give credit to the many organisations that were able to pick up that this consultative process was in place and assist the committee in its process. Particularly, I want to thank individuals like Kayte Fairfax from World Vision; Noor Blumer from Australian Women Lawyers; Kathleen Maltzahn from Project Respect; and Associate Professor Sheila Jeffreys from the Coalition Against Trafficking of Women and thank their organisations because they managed, in a very short space of time, to put together credible submissions and present them to the committee.

I want to extend my thanks to all the individuals and organisations involved in the committee process and thank those who took time to make submissions, because this is a serious issue and we need to get it right. I would also like to extend my thanks to fellow members of the committee, especially the chair, and also to the hardworking staff of the committee secretariat who had a tough job to make it all happen. Labor looks forward to the government’s response. I hope these recommendations are picked up by the government and placed within the bill.

Question agreed to.

COMMITTEES

Public Accounts and Audit Committee: Joint Report

Senator WATSON (Tasmania) (4.20 p.m.)—On behalf of the Joint Committee of Public Accounts and Audit, I wish to present an oral report on the nomination of a new Commonwealth Auditor-General, pursuant to
subsection 8A(7) of the Public Accounts and Audit Committee Act 1951. Under Section 8A of the Public Accounts and Audit Committee Act 1951, the Joint Committee of Public Accounts and Audit has a responsibility to approve or reject a proposed recommendation by the Prime Minister for the appointment to the office of Auditor-General. This is the first occasion on which the committee has exercised this important statutory obligation, it having been enacted during the tenure of the retiring Auditor-General, Mr Pat Barrett.

The Auditor-General is an independent officer of the parliament, and so it is both appropriate and important that the committee has the powers to scrutinise and, if it deems necessary, reject a nomination to this position. I am pleased to rise on this occasion to indicate to the Senate the committee’s unanimous approval of the appointment of Mr Ian McPhee as Auditor-General. The appointment has been approved this morning by the Executive Council.

Mr McPhee is a dedicated and highly competent person who brings a wealth of experience to the position. He was formerly a long-serving employee of the Australian National Audit Office, gaining experience at the highest levels of the organisation as Deputy Auditor-General from 1998 to 2003. He left the Audit Office to become a deputy secretary in the Department of Finance and Administration.

Mr McPhee expressed to the committee his view of the positive role of the Audit Office as a value adder. He recognises that the most effective way of achieving outcomes is through the provision of advice in a cooperative rather than an oppositional spirit. Auditors are not an enemy whose role it is to obstruct government agencies and departments. It is not the role of the Auditor-General and his staff merely to scrutinise and criticise government agencies for inefficiencies, but also to educate through the publication of better practice guides and other measures. However, the primary responsibility of the Audit Office is to ensure that government agencies and departments operate efficiently and effectively while meeting all the compliance standards that are required of publicly funded agencies. In this the Auditor-General and his staff must cooperate and operate without fear or favour, and Mr McPhee’s record is testament to his abilities in this regard.

The committee and the Audit Office are complementary instruments through which procedures in the expenditure of public funds are scrutinised and held accountable. Each organisation works best when they enjoy a close working relationship. We as a committee look forward to reinforcing and building upon the already strong lines of communication between the Joint Committee of Public Accounts and Audit, and the Audit Office during Mr McPhee’s stewardship. On behalf of the committee, I congratulate Mr McPhee on his appointment and express our complete confidence in his abilities to ensure that the Australian public gets value for its money.

Finally, I wish to acknowledge the achievements of the outgoing Auditor-General, Mr Pat Barrett AO, who has served as Commonwealth Auditor-General since May 1995. He could be said to have been the first truly independent Auditor-General. It was during Mr Barrett’s tenure that the Auditor-General Act 1997 was enacted following a 1996 report by the committee, marking a new era for the Australian National Audit Office. The act established the Auditor-General as an independent officer of the parliament, gave him much more autonomy over the budget of the Australian National Audit Office and gave him a mandate to audit all Commonwealth entities.
During Mr Barrett’s time the Audit Office has proven to be a vital instrument through which government agencies and departments have been accountable to the parliament. I wish him well for the future and I again congratulate Mr McPhee on his appointment to this important office. I have been asked by Democrats Senator Andrew Murray to state that he joins me in these comments. I thank the Senate.

Membership

The ACTING DEPUTY PRESIDENT (Senator Cherry)—The President has received letters from party leaders seeking variations to the membership of certain committees.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (4.25 p.m.)—by leave—I move:

That senators be discharged from and appointed to committees as follows:

Economics Legislation Committee—
Appointed—Substitute member: Senator Lundy to replace Senator Webber for the committee’s inquiry into the provisions of the Trade Practices Legislation Amendment Bill (No. 1) 2005

Foreign Affairs, Defence and Trade References Committee—
Appointed—Substitute member: Senator Bartlett to replace Senator Ridgeway for the committee’s inquiry into duties of Australian personnel in Iraq

Mental Health—Select Committee—
Appointed—Senators Forshaw, Humphries, Moore, Scullion, Troeth and Webber

Rural and Regional Affairs and Transport Legislation Committee—
Appointed—Substitute member: Senator Bartlett to replace Senator Cherry for the committee’s inquiry into the provisions of the Border Protection Legislation Amendment (Deterrence of Illegal Foreign Fishing) Bill 2005

Question agreed to.

APPROPRIATION (PARLIAMENTARY DEPARTMENTS) BILL (No. 2) 2004-2005

APPROPRIATION BILL (No. 3) 2004-2005

APPROPRIATION BILL (No. 4) 2004-2005

First Reading

Bills received from the House of Representatives.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (4.26 p.m.)—I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (4.26 p.m.)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

APPROPRIATION (PARLIAMENTARY DEPARTMENTS) BILL (NO. 2) 2004-2005

Appropriation (Parliamentary Departments) Bill (No. 2) seeks additional funding of $349,000 for the Parliamentary Departments.

The largest component of these funds relates to increased expenses of the Citizenship Visit Programme.

The Parliamentary Departments have also reported savings of $106,000, which relate to movements in Comcover premiums.

I commend the bill to the Senate.
APPROPRIATION BILL (No. 3) 2004-2005

It is with great pleasure that I introduce Appropriation Bill (No. 3) 2004-2005.

There are three Additional Estimates Bills this year: Appropriation Bill (No. 3), Appropriation Bill (No. 4) and Appropriation (Parliamentary Departments) Bill (No. 2). I shall introduce the latter two Bills shortly.

The Additional Estimates Bills follow on from the Appropriation Bills that were introduced on the occasion of the 2004-2005 Budget. They seek authority from Parliament for the additional appropriation of monies from the Consolidated Revenue Fund, in order to meet funding requirements that have arisen since the last Budget. I should also mention that the funding associated with the Government’s response to the tsunami will be provided for in separate legislation which is likely to be introduced towards the end of the Autumn Sittings.

The total appropriation being sought through the Additional Estimates Bills this year is some $2,093.2 million, which is partially offset by expected savings in appropriations of around $298.6 million. Taking savings into account, the net increase in appropriation being sought since the 2004-2005 Budget is approximately $1,794.6 million, or about 3.4% of total annual appropriations. These savings are described in the document accompanying the bills, the “Statement of Savings Expected in Annual Appropriations” which I will table shortly.

The total appropriation being sought in Bill 3 this year is around $1,540.2 million. This appropriation arises from changes in the estimates of programme expenditure, due to variations in the timing of payments and forecast increases in costs, reclassifications and policy decisions taken by the Government since the last Budget, most of which have been described in the “Mid Year Economic and Fiscal Outlook” document published in December last year.

Bill 3 includes funding for many of the Government’s election commitments. In particular, it provides:

- $18.5 million to the Department of Health and Ageing to further address mental health issues, including depression and dementia;
- $10.1 million to establish the National Water Commission and provide programme funding under the Australian Water Fund;
- $10 million contribution to the Department of Communications, Information Technology and the Arts towards upgrading the Penrith Stadium;
- $6.9 million to the Attorney-General’s Department for additional funding for the National Community Crime Prevention programme, in addition to the extra $5 million announced before the election;
- $6.5 million to the Department of Veterans’ Affairs as additional funding to commemorate significant anniversaries in 2005, including the ninetieth anniversary of the Gallipoli landings and the sixtieth anniversary of the end of World War Two.

The major items of expenditure in the bill include:

- $365.1 million to the Department of Employment and Workplace Relations in additional funding for Job Network, reflecting the continuation of record levels of performance and employment outcomes under Employment Services Contract 3;
- a net $103.8 million to the Department of Defence, which includes:
  - $149.4 million to fund accelerated depreciation for the earlier withdrawal of F-111 fighter planes and two guided missile frigates;
  - $85.1 million in indexation adjustments;
- $123.5 million to establish Tourism Australia;
- $78.7 million to the Department of Family and Community Services to fund Centrelink costs for the recent Budget measure, More Help for Families;
- $60 million to the Australian Taxation Office to provide transitional grants to state funded organizations which will become ineligible for an exemption from Fringe Benefits Tax as public benevolent organizations;
• $42.1 million to the Department of Environment and Heritage to enhance and supplement the Great Barrier Reef Structural Adjustment Package;

and

• $24.3 million to the Department of Health and Ageing for the Childhood Obesity Package.

The remaining amount in Bill 3—around $690.7 million—relates to estimates variations and other measures.

I table the “Statement of Savings Expected in Annual Appropriations”, and I commend the bill to the Senate.

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APPROPRIATION BILL (No. 4) 2004-2005

Appropriation Bill (No. 4) provides additional funding to agencies for:

• expenses in relation to grants to the States under section 96 of the Constitution and for payments to the Northern Territory and the Australian Capital Territory; and

• non-operating purposes such as equity injections and loans.

The total additional appropriation being sought in Appropriation Bill (No. 4) 2004-2005 is around $552.6 million.

The principal factors contributing to the additional requirement since the 2004-2005 Budget include $81.8 million in additional payments to the States and Territories. These payments include the fulfilment of election commitments from last year, such as:

• $30 million to the Department of Transport and Regional Services for the expansion of the Roads to Recovery programme;

• $10 million to the Department of Health and Ageing to develop a prototype, world-class cancer centre at the Melbourne Royal Children’s Hospital;

• $5 million to the Department of Health and Ageing to establish a national critical care and trauma response centre at Royal Darwin Hospital;

and

• $4.1 million to the Department of Health and Ageing for a new positron emission tomography scanner at Westmead Hospital.

Another major component of the payments to the States and Territories is $17.7 million to the Department of Industry, Tourism and Resources for additional compensation to Victoria and New South Wales for company taxes paid through Snowy Hydro Limited.

Bill 4 also proposes $420.8 million in additional appropriation for non-operating expenses. Election commitments also feature in these payments, including:

• $11 million to the Australian Customs Service for new mail, biological and chemical screening capacities;

and

• $6.4 million to the Australian Federal Police for specialist counter-terrorism equipment.

The remaining components of Bill 4’s non-operating items include:

• $84.6 million to the Department of Industry, Tourism and Resources to pay the Government’s loan guarantee for the Australian Magnesium Corporation ahead of schedule, extinguishing the $90 million liability;

• a net $76.5 million to the Department of Defence which is largely related to reclassifying the logistics support budget from maintenance related expenses to the purchase of repairable items;

• $72.2 million to the Department of Transport and Regional Services to reclassify capital works in the Indian Ocean Territories from departmental to administered appropriations;

• $65.8 million to the Department of Foreign Affairs and Trade and Austrade to enhance security in Australian diplomatic missions, including blast proofing windows;

and

• $25.7 million to the Department of Employment and Workplace Relations to address the cash requirements of expenses incurred in relation to the Job Network in 2003-04, reflecting the high levels of activity and outcomes under Employment Services Contract 3.
Finally, the bill includes $50 million for a new administered expense for the National Water Commission. These grant and programme funds represent the first part of the Government’s election policy to establish the Australian Water Fund. I commend the bill to the Senate.

Debate (on motion by Senator Coonan) adjourned.

TRADE PRACTICES LEGISLATION AMENDMENT BILL (No. 1) 2005

AUSTRALIAN INSTITUTE OF MARINE SCIENCE AMENDMENT BILL 2005

First Reading

Bills received from the House of Representatives.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (4.27 p.m.)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (4.27 p.m.)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

TRADE PRACTICES LEGISLATION AMENDMENT BILL (NO. 1) 2005

The Trade Practices Act 1974 forms the central pillar of Australia’s competition policy framework.

The Act promotes competition and fair trading and provides for consumer protection by prohibiting anti-competitive conduct and by providing the processes and institutions necessary to ensure these laws are enforced and administered to the benefit of all Australians, including big and small business, and consumers.

This Government considered that it was appropriate to review the operation and administration of the competition provisions of the Act, in light of the significant structural and regulatory changes that have occurred over the last decade and in honouring our 2001 election commitment announced in Securing Australia’s Prosperity.

The Trade Practices Legislation Amendment Bill (No. 1) 2005 implements the Australian Government’s response to recommendations arising from the independent review of the Act, chaired by Sir Daryl Dawson.

In the previous Parliament a similar Bill—the Trade Practices Legislation Amendment Bill 2004—was introduced to implement the Government’s response to the Dawson Review. The previous Bill lapsed as a result of the October 2004 federal election. This current Bill contains a number of minor amendments that enhance and clarify the operation of the provisions in the previous legislation. These minor amendments do not alter the broad substance of reform found in the previous Bill.

The Dawson Review is the most comprehensive review of the competition provisions of the Act for a decade. After extensive and comprehensive consultation and consideration, the Dawson Review concluded that the competition provisions of the Act have served Australians well. The review committee made a total of 43 recommendations aimed at improving the operation of the competition and authorisation provisions, as well as the administration of the Act.

The overall theme of the Dawson Review is that the competition provisions should protect the competitive process, rather than particular competitors. The Government strongly supports this
view of the Act, and has accepted the vast majority of the Dawson Review recommendations.

The bill will improve existing Australian Competition and Consumer Commission (ACCC) processes by providing for greater accountability, transparency, and timeliness in decision making and reducing the regulatory burden on business.

The major initiatives contained in the bill are as follows:

**Mergers**

**New merger clearance process**

A voluntary formal clearance system will be created that will operate in parallel with the informal clearance system. The test for considering mergers will remain unchanged—section 50 of the Trade Practices Act will continue to prohibit mergers that would have the effect, or be likely to have the effect, of substantially lessening competition in a market.

The Dawson Review found that the ACCC’s informal system of merger clearance can be quick, inexpensive and flexible in many circumstances but identified a lack of certainty for business as a clear disadvantage:

- there is (necessarily) no statutory time limit on the ACCC;
- the absence of a meaningful appeals mechanism may allow the extraction of undertakings that go beyond the competition concerns of a merger;
- the lack of a legal requirement for the ACCC to provide reasons for its decisions prevents the development of a body of precedent; and
- ultimately, there is no certainty of immunity from legal action.

In response to these concerns, the Dawson Review recommended that a voluntary formal clearance system operate in parallel with the existing informal system—thus providing business with options dependent upon their particular circumstances.

The informal system will continue to answer the needs of straightforward mergers. Parties to more difficult mergers will be able to utilise the informal system to address ACCC concerns but, when they are ready to proceed, the formal system will provide the certainty of legislated time limits, require the disclosure of reasons, allow the applicant to appeal to the Australian Competition Tribunal (the Tribunal), and provide immunity from legal action should the clearance be granted.

**Merger Authorisations**

The Dawson Review identified that dissatisfaction with the merger authorisation process has been largely attributed to concerns about the time which may be taken to reach a decision and the risk of third party intervention by the way of appeals to the Tribunal.

These factors have rendered the authorisation process commercially unrealistic for many merger proposals, especially those involving publicly listed companies.

The bill provides that merger authorisation applications will be considered directly by the Tribunal so as to ensure commercially realistic time frames for such applications, and to prevent strategic appeals by third parties. Third party interests will be considered as part of the Tribunal’s comprehensive assessment.

**Non-Merger Authorisation**

The bill addresses the concerns of business regarding the sometimes expensive and protracted nature of the non-merger authorisation process by placing time limits on the ACCC for considering applications. Small business in particular is advantaged by providing the ACCC with the discretion to waive, either in whole or part, the filing fee, in appropriate circumstances.

**Collective Bargaining**

This Government acknowledges and supports the important contribution made by small business to the Australian economy.

The bill will reduce the regulatory burden on small business by introducing a notification process for collective bargaining by small business dealing with large business, as an alternative to the authorisation process.

In the absence of objection by the ACCC, the bill provides collective bargaining arrangements will receive immunity at the end of 14 days for a period of three years. The Government proposes that the period be initially set at 28 days by regulation, with a further assessment at the end of 12 months.
Subject to meeting the appropriate tests and procedural requirements, the ACCC will be able to issue an objection notice at any time after it has been notified of a collective bargaining arrangement, regardless of whether the 14 or 28 day period has elapsed and immunity applies.

The onus will be on the ACCC to provide notice that the small business collective bargaining arrangement does not, or is unlikely to, generate public benefits, or that those benefits will not outweigh the detriment resulting from the arrangement.

In considering public benefit and detriment, the ACCC will have particular regard to the Government’s intention that the collective bargaining provisions not be used to pursue matters affecting employment relationships. The Act is for the promotion of competition and fair trading and the provision of consumer protection, not the pursuit of employee entitlements. This is further reinforced by an amendment which makes a notification invalid if it is lodged on behalf of a small business by a trade union, its officers or a person acting on the direction of the trade union.

The ACCC has already authorised collective bargaining arrangements, including those by chicken growers, dairy farmers, sugarcane growers and small private hospitals. However, the process of obtaining authorisation may be expensive, time consuming and impose an unnecessary burden on small business—in many cases notification will be an appropriate, effective and speedy alternative.

To ensure the collective bargaining process benefits small business dealing with large business, there is a transaction limit of $3 million in any 12-month period. However, it is recognised in the bill that there are businesses with high turnover and small profit margins which should have a higher transaction limit, and the bill provides that a higher limit can be set by regulation.

The Government considers there would be a range of businesses suitable for a higher limit. These could include motor vehicle dealers, petrol station owners and some agricultural businesses. The Minister for Small Business and Tourism is developing proposals for the Government’s consideration in respect of these regulations.

**Exclusionary Provisions, Price Fixing Provisions and Joint Ventures**

The Act prohibits exclusionary and price-fixing provisions outright; that is, without regard to their actual impact on competition. The Government considers that outright prohibitions should continue for clear cartel conduct.

However, the Dawson Review found that the existing joint venture exemption contained in the Act is too narrow to encompass many newer forms of joint ventures, such as those found in e-commerce.

The bill provides a joint venture defence to the prohibitions on exclusionary provisions and price-fixing provisions. Clear cartel conduct will continue to be prohibited outright but genuine joint ventures will be considered on the basis of a competition test. Authorisation on public benefit grounds will still be available for other joint ventures where appropriate.

**Dual Listed Companies**

The modern phenomenon of dual listed companies is recognised in this bill by allowing intra-party transactions in a dual listed entity to be treated on the same basis as related party transactions within a group of companies, and for the aggregate market power of the dual listed company to be assessable for the purpose of considering market power.

The formation of a dual listed company will be prohibited where it would substantially lessen competition in a market, with authorisation available in appropriate cases.

**Third Line Forcing**

Most exclusive dealing arrangements are only prohibited by the Act if they substantially lessen competition. Third line forcing, which involves selling only on condition that goods are acquired from a third party, is, however, prohibited outright.

The Dawson Review considered that third line forcing is often beneficial and pro-competitive. The ACCC presently opposes very few of the hundreds of third line forcing notifications received annually and has also found that these arrangements can encourage competition, such as...
the grocery shopper docket arrangements for cheaper petrol.

The bill amends the Act to subject third line forcing to a substantial lessening of competition test, consistent with other forms of exclusive dealing.

**Enforcement**

The ACCC is a vigorous and effective regulator. In recognition of the ACCC’s extensive investigative powers and its potential to significantly disrupt business if these powers are not used appropriately, the Dawson Review recommended greater transparency and accountability in the ACCC’s enforcement mechanisms, and greater safeguards on the use of its extensive powers.

The current provisions in the Act provide the ACCC with the power to enter premises and inspect documents without a warrant. This bill will provide the ACCC with the ability to search premises and seize evidence; however, these powers are matched with appropriate accountability by requiring the ACCC to obtain a warrant from a Magistrate.

These amendments both enhance the effectiveness of the ACCC’s investigative powers and also ensure accountability and transparency. The relevant rights and responsibilities of the ACCC and businesses subject to investigation are clearly specified.

**Penalties**

The bill provides for higher penalties for contraventions of the competition provisions in Part IV of the Act, as a means of better deterring corporations or individuals from engaging in anti-competitive conduct.

The Government has adopted recommendations made by the Dawson Review which provide that the maximum pecuniary penalty for corporations be raised to be the greater of $10 million or three times the gain from the contravention or, where gain cannot be readily ascertained, 10 per cent of the turnover of the body corporate and all of its interconnected bodies corporate, if any.

The bill also gives the court the option to disqualify an individual implicated in a contravention of Part IV of the Act from being a director of a corporation or otherwise being involved in its management.

Corporations are also to be prohibited from indemnifying, directly or indirectly, their officers against the imposition of a pecuniary penalty or the legal costs of defending or resisting proceedings that seek such penalties. Loans and advances made by a corporation to its officers to assist them to defend themselves do not amount to indemnification, so long as the officer is required to repay the loan or offset the advance should they be found to have contravened Part IV of the Act and a pecuniary penalty is imposed.

**Other Measures in the bill**

In addition to implementing the major recommendations of the Dawson Review, the Act is amended to apply to local government consistently with other levels of government—that is, to the extent it carries on a business. The bill also implements measures to help ensure the constitutional validity of the Act’s national application, addressing uncertainties raised by the High Court in the Hughes case.

**Conclusion**

The Trade Practices Act is an essential component of Australia’s regulatory framework, and the bill enhances existing measures in the Act to provide greater accountability, transparency, timeliness and efficiency.

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**AUSTRALIAN INSTITUTE OF MARINE SCIENCE AMENDMENT BILL 2005**

The Australian Institute of Marine Science (AIMS) is a public sector research agency with the mission to generate and transfer knowledge to support the sustainable use and protection of the marine environment through innovative, world-class scientific and technological research.

AIMS was established by the Australian Institute of Marine Science Act of 1972 in recognition of the growing importance of the marine sector to Australia. The AIMS Research Plan 2003-06 identified that the work of AIMS contributes to four of the national research priorities: an environmentally sustainable Australia; frontier technologies for building and transforming Australian industries; promoting and maintaining good health; and safeguarding Australia. AIMS research also contributes to the implementation of Australia’s Oceans Policy, which provides an
integrated strategy for the exploration and ecologically sustainable utilisation of marine natural resources. The development and actioning of regional marine plans is an important part of this policy and AIMS’ work is contributing to the progress of such plans for Australia’s tropical oceans.

AIMS’ research and other activities have a tropical and Northern Australia focus with scientists based at three locations, Townsville, Queensland (the main site); Darwin, Northern Territory; and Fremantle, Western Australia. AIMS builds critical mass through collaborative arrangements, both nationally and internationally. AIMS’ current research plan includes three new initiatives to enhance collaboration. These are the Arafura Timor Research Facility, a major national research facility run jointly with the Australian National University; the AIMS and United States National Ocean and Atmospheric Administration strategic partnership which examines coral reef ecology, water quality and climate change; and the AIMS@JCU joint venture, a formal collaborative arrangement between AIMS and James Cook University.

The AIMS@JCU joint venture has the purpose of formally strengthening the ties between AIMS and James Cook University. The Australian government provided AIMS with funds in the 2003-04 federal budget to help implement the joint venture and hence further contribute to making Townsville one of the world’s acclaimed centres for research and teaching in marine science. The joint venture agreement was signed on 17 June 2004 and an independently chaired Board of Management has been established. The Board is overseeing the strategic management and decisions pertaining to the joint venture.

The AIMS@JCU joint venture has identified to date two research programs as core activities under the agreement. They are: aquaculture; and coastal processes and marine modelling (the joint venture will examine the potential for a biotech program in 2005). AIMS and JCU agreed to use the funds provided by the Australian government for the joint venture to build a state-of-the-art fibre optic communication link between the two institutions and to fund extra research student places.

The first part of the bill contains amendments that will further support collaboration between AIMS and JCU. Through the appointment of a JCU-nominated member to the Council for the Institute of Marine Science (the governing body of AIMS) greater coordination between the two institutions will be encouraged. Increasing Council membership in this way, from the current six to seven members, is intended to specifically support the endeavours of the AIMS@JCU joint venture while not affecting the Council’s current capacity to access expertise external to AIMS.

The inclusion of a JCU nominated member on the council is an action that accords with the findings from the 2004 Review of Closer Collaboration between Universities and Major Publicly Funded Research Agencies. This review found that the current level of collaboration is extensive, at the individual researcher level; but there is an opportunity to enhance the level of collaboration at the organisational and higher strategic level.

The proposed change of the title of the head of AIMS from ‘Director’ to ‘Chief Executive Officer’, accords with current terminology for such a position, for example as in use by the Australian Research Council and the National Health and Medical Research Council. ‘Chief Executive Officer’ clearly identifies the holder of the office as the head of AIMS, clarity that is important when developing professional relationships and arrangements on behalf of AIMS.

I commend the bill to the Senate.

Ordered that the bills be listed on the Notice Paper as separate orders of the day.

Debate (on motion by Senator Coonan) adjourned.

APPROPRIATION (TSUNAMI FINANCIAL ASSISTANCE) BILL 2004-2005
APPROPRIATION (TSUNAMI FINANCIAL ASSISTANCE AND AUSTRALIA-INDONESIA PARTNERSHIP) BILL 2004-2005
First Reading

Bills received from the House of Representatives.
Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (4.28 p.m.)—I move:

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

Question agreed to.

Bills read a first time.

Second Reading
Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (4.28 p.m.)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

APPROPRIATION (TSUNAMI FINANCIAL ASSISTANCE) BILL 2004-2005

Introduction
As I mentioned earlier in relation to the bill to fund the Australia-Indonesia Partnership for Reconstruction and Development, the response of the key agencies to the tsunami disaster was swift. The tsunami struck on 26 December 2004, at the height of our holiday season, yet relief flights out of Australia commenced the next day.

To achieve this timely action, agencies diverted funding from current programmes. This bill replaces the diverted funding requesting a total of $131.4 million in new appropriations. This figure also includes a small amount for the Australia-Indonesia Partnership for Reconstruction and Development.

Contents of bill
The great majority of the funding in this bill is for AusAID and the Department of Defence.

AusAID will receive $52.3 million, of which $1.6 million will be allocated to running costs for the Partnership. The emergency activities that the agency has funded include:

- a civilian hospital in Banda Aceh, which performed 20-30 operations a day and treated hundreds of other patients with serious medical conditions, such as severe lung infections;
- the supply of five medical teams to Indonesia, and one medical team each to Sri Lanka and the Maldives;
- the delivery of four tonnes of medical supplies and eight tonnes of medical equipment to Sri Lanka, valued at over $1 million;
- the delivery of 2.5 million litres of water to Banda Aceh; and
- the establishment of a medium-term civil medical team at Banda Aceh General Hospital and commencement of rapid master planning exercises for the Banda Aceh health and medical sectors.

The Department of Defence is allocated $50.5 million in this bill. Our forces made a major contribution towards stabilising the crisis so others could take the load. They performed with a high degree of professionalism and demonstrated they can operate effectively in many different roles. Their key activities during the emergency included:

- running a field hospital in Banda Aceh;
- producing 4.7 million litres of clean water with water purification plants; and
- clearing 7000 cubic metres of debris.

Another key agency during the crisis was the Department of Foreign Affairs and Trade, for which the Government is requesting an appropriation of $17.3 million. The Department has been involved in providing consular assistance to Australians in the affected areas, the disaster victim identification process, repatriating Australian remains and handling the return of personal effects.

The Department also had to cope with an intense workload of queries from the Australian public about missing persons. It handled almost 15,000 missing person inquiries, up from 711 cases for 2003-04. In all, the consular hotline took 84,000 calls.

The Australian Federal Police is allocated approximately $4.9 million in the bill. The Austra-
lian Federal Police was also involved in disaster victim identification and, in fact, expended approximately $8 million on this activity in total.

In December 2004, the Government announced a package of assistance for Australians who were adversely affected by the tsunami. The package provides:

- health and psychological care for Australians injured in the tsunami;
- psychological care for Australians who are relatives of anyone who was injured or deceased in the tsunami;
- funding to help meet the transport, accommodation and funeral costs for those injured in the tsunami and the next of kin of the deceased.

The Departments of Health and Ageing and Family and Community Services have responsibility for these initiatives. The bill requests appropriations of $2.5 million and $2.4 million respectively for these agencies.

A number of other agencies are to receive a total of approximately $1.4 million. They are the Attorney-General’s Department, CrimTrac, the Health Insurance Commission, and the National Blood Authority.

Close

Many of the agencies I have just discussed above put a great deal of effort into responding to the tsunami emergency.

The Government, however, was not alone in responding to the crisis. The Australian public raised over $280 million. The State and Territory Governments also deserve recognition for the way they have cooperated, including the sourcing of medical teams.

Given that agencies diverted funds to deal with the crisis, passing these bills will ensure that agencies’ ordinary activities will be able to continue to the end of the financial year. It will also allow these agencies to continue their work on the emergency for the remainder of 2004-05.

On behalf of the Government, I would like to thank everyone who assisted in the relief effort. I commend the bill to the Senate.
registered to work overseas and assist with the relief effort. The Australian public has raised over $280 million to assist relief agencies.

Indonesia was particularly hard hit by the tsunami, with over 124,000 people confirmed dead and over 111,000 missing, presumed dead. On 5 January the Prime Minister announced the establishment of the $1 billion Australia-Indonesia Partnership for Reconstruction and Development. This is a programme of long-term, sustained cooperation and capacity building focused on economic reconstruction and development. It is the single largest aid package ever made by Australia.

Taken together, Australia’s public and private contributions to the relief effort stand at over US$50 per head. According to a recent Reuters report, which drew a list of the private and government donations from each country around the world, this per capita response is the most generous of any country in the world.

The bills I am introducing today request appropriation for the Australian Government’s response to the tsunami. They request a total of approximately $1.13 billion.

This bill makes up the bulk of the package and requests total funding of approximately $1.02 billion. This includes the $1 billion which will fund the Australia-Indonesia Partnership for Reconstruction and Development.

Another bill, which I will introduce shortly, deals with the bulk of the Government’s emergency response that commenced in December 2004.

**Australia-Indonesia Partnership for Reconstruction and Development**

The centrepiece of this bill is an appropriation of $1 billion for the Australia-Indonesia Partnership for Reconstruction and Development. It is a 5 year programme, comprising $500 million in grant funding and up to $500 million in loans.

The Partnership reflects Australia’s desire to work with Indonesia to help that nation recover from the tremendous human and economic damage it sustained as a result of the tsunami. It lifts Australia’s assistance programme to Indonesia to a total of $1.8 billion over five years.

The Partnership will support Indonesia’s reconstruction and development efforts, both within and beyond tsunami affected areas. It will also support Indonesia’s broader development and economic reform agenda.

The partnership represents a new chapter in Australian-Indonesian relations, deepening already close person-to-person links between our two countries and taking government-to-government cooperation to new levels.

As a bilateral programme, decisions on the activities to be supported, the split of funds between geographic areas and between rehabilitation, reconstruction and development will be determined jointly between Indonesia and Australia.

The Partnership will be managed by a Joint Commission overseen by the Prime Minister and President Yudhoyono and chaired by Foreign Minister Downer and his Indonesian counterpart. In a desire to have a strong economic focus on the reconstruction and development work, economic ministers will join the Commission and I will represent the Australian side. The Joint Commission will set overall strategic directions, establish key priorities for funding, determine and review an annual work programme and agree on major activities.

The inaugural meeting of the Joint Commission will take place on 17 March.

**Details of the bill**

In order to manage such a large commitment effectively, the $1 billion will be appropriated to two special accounts created under the Financial Management and Accountability Act 1997. By using special accounts, the funds will be separated from other aid money and can only be spent on the precise purposes for which they have been established. It also ensures a high degree of transparency and accountability.

The Minister for Finance and Administration, the Hon Senator Nick Minchin, yesterday tabled in the other place the two determinations that will establish these special accounts.

The special accounts will each hold $500 million. The first special account will be used to provide grant aid.

The second special account will provide loans for reconstruction and development, including rehabilitation of major infrastructure. Through that
special account, we will provide up to $500 million in interest free loans for up to 40 years with repayment of principal commencing after 10 years.

The Director-General of AusAID will be responsible for ensuring that all commitments, procurement and expenditure for the Partnership are in accordance with the provisions of the Financial Management and Accountability Act 1997 and all associated Regulations. Financial details, as with all special accounts, will be reported in the Consolidated Financial Statements each year. Progress with implementing the Partnership and outcomes achieved will be reported in AusAID’s Annual Report.

Rest of the bill
The bill also requests approximately $1.5 million for the Department of Defence, the Health Insurance Commission and AusAID. This amount will cover some costs associated with commencing the Partnership, so that the full $1 billion will be available for Indonesia’s reconstruction and development. The $1.5 million also includes some asset costs related to the Government’s emergency response to the tsunami.

Conclusion
The Australia-Indonesia Partnership for Reconstruction and Development is the single largest aid project ever undertaken by Australia. The initial priority of the Partnership is to support Indonesia’s efforts to repair the damage caused by the tsunami. Over time, it will help Indonesia strengthen its economy and institutions.

In 1907, a tsunami struck the Indonesian Island of Simeulue (sim-OE-lay). Afterwards, the people of Simeulue passed down through the generations a description of the tsunami through their folklore. This included the phenomenon of the waves following a strong earthquake.

When the tsunami hit Indonesia on 26 December last year, the people of Simeulue felt the earthquake and knew they had to run to high ground to find safety. Out of the suffering of 1907 came a legacy which saved lives.

Let us set ourselves a task with this new Partnership that out of the suffering and destruction from the recent tragedy can come a valuable relationship that will save lives and make a better standard of life for future generations of people in Aceh and elsewhere in Indonesia. The Australia-Indonesia Partnership for Reconstruction and Development, which we propose to establish through this bill, is a huge step along that path.

I commend the bill to the Senate.

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

BILLS RETURNED FROM THE HOUSE OF REPRESENTATIVES

Message received from the House of Representatives agreeing to the amendments made by the Senate to the following bill:

National Health Amendment (Prostheses) Bill 2005

ECONOMY

Senator SHERRY (Tasmania) (4.29 p.m.)—At the request of Senator Ludwig, I move:

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.
This motion, relating to various serious aspects of the Australian economy, is an important motion for the Senate to consider today. The motion notes the deterioration in the economy, including the record current account deficit of some 7.1 per cent of gross domestic product, record net foreign debt of some $422 billion, a negative household savings ratio, and amongst the lowest growth rates of any advanced economy in the world. There are a range of issues that I, on behalf of the Labor Party, ask the government to consider to assist in dealing with the deteriorating economic indicators that we have seen—not just with the release of the national accounts last week and the announcement of an increase in interest rates by the Reserve Bank. Some of these indicators have been around for some time, but I will go into more detail later.

I do want to acknowledge the participation in this debate of my good friend and colleague Senator Cook, who is retiring on 1 July and was a dynamic, high energy, visionary minister in the former Hawke-Keating government—and I will make a little reference to its performance shortly. The Howard Liberal government has been very fortunate in many respects and many aspects of the Australian economy. In 1996, some nine years ago, when the Liberal government was elected, it inherited an economy with, to steal a description, ‘a fully reconditioned engine and a tank full of petrol, ready to move from cruise gear into overdrive’. In fact, it was the current Prime Minister, Mr Howard, who admitted in a radio interview back in 1996, ‘We have inherited basically a sound economy.’

Senator Coonan—We just had a $10 billion black hole.

Senator SHERRY—We will get to this so-called black hole—as Senator Coonan interjects on behalf of the government—shortly. And I will remind you about another big black hole that we inherited back in 1983, if we want to go back through history. In 1996, Australia was at the top of the growth table when the current government was elected. Many of the significant reforms, big reforms, undertaken by the Hawke-Keating government were beginning to pay off. The government, over the last nine years, has generally been very fortunate with the international backdrop. Globally we have had the lowest inflation and the lowest interest rates since the 1960s. Australia has had its best terms of trade and the lowest interest rates since the 1960s. Australia has had its best terms of trade in some 30 years, and also we are fortunate in our trading relationships with countries such as China, which is a very strong economy with economic growth rates of eight or nine per cent. In the Hawke-Keating period a great deal of time and effort went to developing those economic trade relationships.

Unfortunately, the Howard Liberal government has not used the last nine years of generally good times to make provision for the future, and our prosperity is at risk in some areas. We have become a very low-saving, consumption driven economy, not a production driven, wealth-generating economy. Our current account deficit—the deficit of our import bill over our export bill—is enormous. Our exports have been, in fact, flat-lining. Australia as a whole has not been paying its way.

The government, whenever it has got into a little bit of economic heavy going in the last nine years, has played the blame game; and I return to Senator Coonan’s earlier comment about the inherited so-called Beazley $10 billion black hole—a little bit of history. I can remember back to the 1983 election of the Hawke-Keating government, to the then Treasurer, Mr Howard, who left the newly elected Labor government with a $22 billion budget deficit. So if we want to go back in history and look at the current
Prime Minister’s performance, let us have a look at his performance when he was Treasurer. In fact, that deficit—truly massive by any standard—was covered up by the current Prime Minister, then Treasurer, Mr Howard. He covered it up and it did not come to light until after the election.

This government has been fond of playing the blame game. Whenever it gets into some difficult waters with the economy, it is always someone else; it is always the former Labor government. Here we are, nine years on, and it is the former Labor government’s fault. Or it is the Asian SARS crisis, or it is the global economy, or it is state governments, or it is oil prices, or it is a high dollar, or it is a low dollar, or it is the unions, or it is China, or it is Russia, or it is Argentina. There is always a range of excuses trotted out. The fact of life is: this government has boasted, arrogantly at times, when there have been good economic indicators, and it takes all the credit. So if you boast when times are good, you cannot absolve yourself from responsibility when times are bad and there are some bad economic indicators. You cannot claim the credit in the good times and then say, ‘It’s nothing to do with us if there is a problem in the bad times.’ We saw it again today in question time.

Senator McGauran—are the workers suffering?

Senator SHERRY—Workers have just suffered, Senator McGauran, because their families have just been hit by an increase in interest rates last week. You ought to ask workers about that, and also ask them about the increase in private health insurance costs. I will not get drawn into responding to interjections from the National Party. We know what they count for—the doormats of the coalition. Really, they have got less influence than anyone in the government. They just get trampled on by the Liberal Party. What we have seen over the last nine years is an arrogance and a deep complacency—

Senator McGauran—we work on it every day.

Senator SHERRY—I do not know what the National Party has been working on but they have next to no influence whatsoever. Because this government has been complacent over the last nine years it has squandered opportunities.

As I said earlier, there have been worrying signs for some time about critical aspects of the economy. We certainly saw some very worrying figures last week. For some years now we have seen a build-up in the current account deficit, the national debt and household savings. Look at last week’s national accounts in respect of household savings—and I have spoken on this issue a number of times in the Senate and drawn it to the attention of senators. On this set of statistics, household savings have been in the negative every quarter back to 2002-03 by billions of dollars. The government try to say, ‘We’ve taken care of our debt; the budget is in surplus.’ They try to separate themselves from any responsibility for the growing level of household debt.

This has very serious consequences for the economy. This economy has had negative household savings for approximately the last five years. Look at the graphs. That is a very serious problem because it means that the household economy has been consuming and not saving. For a government that talks the talk—it does not necessarily walk the walk—about the ageing population, that has very serious long-term consequences. The lack of household savings feeds into our national debt and it also feeds the growing proportion of our economy that is being bought from overseas. That in turn feeds into, for example, the massive increase in dividend payments that are flowing out of the country,
which in turn feeds the current account deficit.

This is a government that is focused on short-term fixes. When it is not blaming everyone else for a particular problem, it focuses on short-term political fixes. We saw this in the run-up to the last election. We saw an absolutely massive vote-buying spree—some $66 billion of various policies. As a consequence of this $66 billion in expenditure rolled out by Mr Howard—

Senator Ferguson—Which one would you have cut out?

Senator SHERRY—I recall—it was obviously a background briefing from the Treasurer, Mr Costello—the consternation expressed at the end of the campaign launch of the Liberal Party—not the National Party; they do not have one anymore. The Prime Minister had been given a list of promises—

Senator McGauran—It was a joint launch.

Senator SHERRY—Joint! The National Party do not count for anything. They were not even consulted about it.

Senator McGauran—We will count after 1 July, buddy!

Senator SHERRY—We will see whether you count for anything. You have not counted for anything for years and I doubt you will count for anything then, Senator McGauran. The Prime Minister was handed a list of promises to pick from and read out at that election campaign launch by, I think, the Treasurer. They were expecting one or two from a list of 12 to be picked out but he read the entire list! It is amazing what this government has been doing in terms of promises, handouts and short-term fixes.

I refer now to a former member of the Liberal Party—I do not know whether he is currently a member of the Liberal Party—and I am not overly critical of him because I have a great deal of respect for this economist, the ANZ’s chief economist and one of Australia’s leading economists—

Senator Ferguson—You read your news clips today, Nick!

Senator SHERRY—He was here last night giving a briefing, as well. I know Mr Eslake; I went to university with him. He was studying economics at the University of Tasmania—and at that time he was a member of the Liberal Party. He is a distinguished former Tasmanian. He makes this point:

The national accounts [released on Wednesday] show that in 2004, real Government own-purpose outlays, excluding payments to the states, interest and defence spending, grew more than 10 per cent. That was the highest rate of growth in any calendar year since the Whitlam era, with the exception of one year—

Guess which year—

1983—when the Fraser government was trying to buy its way into a fourth term of office.

Who was Treasurer in 1983? The current Prime Minister, Mr Howard. I was challenged to give an example of some of these election promises. Let us look at the technical colleges. We are now duplicating technical college facilities in this country. We have state technical colleges and now we are going to have Commonwealth technical colleges. There will be a new layer of bureaucracy and presumably duplication of technical facilities. This is a government that does not have the resolve or the determination to tackle the longer-term issues that need to be tackled to ensure an economy with long-term growth that is sustainable. It has allowed investment in infrastructure to decline. It has not invested in skills development and it has delivered historically high and rising taxes. This is Australia’s highest taxing government.

Senator McGauran—Before or after the GST?
Senator SHERRY—Ah, the GST. I can recall the argument—amongst other arguments put forward—that we needed a GST because the tax system was broken. If we look at the income tax being collected from the so-called broken tax system, we can see that it has reached record proportions. There was a reference to this in the OECD report that there was some discussion about in question time today. The Liberal government and the Treasurer, Mr Costello, had delivered—

Senator McGauran—The coalition.

Senator SHERRY—The coalition. They had delivered Australia’s highest taxing government and then decided to spend some $66 billion in the run-up to the last election to deal with, in many areas, short-term political fixes. If we look very briefly at some of the figures that were released last week, the current account deficit has doubled to $54 billion or 7.1 per cent of gross domestic product. That is an all-time record. I know there was some reflection on the ‘banana republic’ comments of Mr Keating, but a figure of 7.1 per cent of gross domestic product as a deficit is a truly staggering figure. I do not know of any other country amongst advanced economies around the world that has anywhere near this type of current account deficit.

Senator McGauran—It is private.

Senator SHERRY—The private debt, Senator McGauran, is still part of Australia. It is still part of the Australian economy, it is still part of an economic problem that has been growing and it is still the responsibility of an Australian government to deal with Australian problems. You cannot simply say, ‘We’ve taken care of government debt,’ and forget all about the mountain—and it is a growing mountain—of the current account deficit, national debt and foreign debt. We heard a lot about this from senators opposite when they were sitting on this side of the chamber some nine years ago.

Senator McGauran—It is different.

Senator SHERRY—Senator McGauran, I have got news for you: foreign debt is foreign debt, and it is a substantial problem for the future of this country. They wheeled out the debt truck—that is one vehicle that really does need some fuel and a reconditioned engine—but we do not see any sign of that now. Foreign debt has more than doubled to $422 billion—another record high. The current account deficit and this level of national debt have important consequences for our economy. I would not expect The Nationals, of all parties, to even understand this. Their contribution to economic debate is rarely heard and then it is never listened to by this government. They are just squashed.

These are very, very important issues. Foreign debt, given our negative household savings, inevitably means we have to import capital in order to sustain that level of debt. In doing so, we have to pay for it. That has meant Australia selling off the farm, to coin a phrase used very often. In order to maintain that debt, you import the capital and you have to sell your assets overseas. That leads to a significant number of problems. One economic consequence is that you are more vulnerable to economic shocks from overseas. Another issue is the increasing level of dividends being paid offshore, which feeds back into your current account deficit. Another issue is that to attract that capital you have to have high interest rates compared to the rest of the world. Again, if you look through the list of 15 advanced economies around the world, including the EU, Australia has the highest level of real interest rates amongst advanced economies at the moment. I have referred to foreign ownership of our land and companies and the problems that that can lead to.
This is a Liberal government that has wasted the opportunity to make a lasting improvement in Australians’ lives in the longer term. It has ridden on the wave of prosperity generated by Labor’s reforms. It has failed to invest in areas critical to the future productive potential of the Australian economy. It has failed to invest, it has been arrogant and it has been complacent. When there is a sign that something is going wrong, after nine years it is all the Labor Party’s fault! After nine years we hear the perpetual broken record. Or there is someone else to blame: it’s the unions, it’s the Senate, it’s the states, it’s SARS, it’s drought. It is one continual list of excuses. The fact is that, if you are going to take the credit when there are good economic indicators, you have to take the blame when there are bad economic indicators. You have to take responsibility. You have to act, and we have seen very little of that from this government. Economic growth is slowing, inflationary pressures are starting to emerge, interest rates are going up, the national debt continues to spiral upwards and the current account deficit continues to increase. These are all very bad economic signs and they are not good for our long-term future and prosperity. (Time expired)

Senator FERGUSON (South Australia) (4.49 p.m.)—We all know that the state of the economy underlies the material conditions of all Australians. It is with great pride that I rise to speak on behalf of a government that has delivered strong economic conditions that are in stark contrast to those that epitomised the Labor Party when it was in government. I notice Senator Sherry is leaving the chamber. Before he goes I should remind him of something he said a few years ago when he was talking about monetary policy. Senator Sherry said: We are not in the business of talking down the economy and talking up a crisis mentality.

Well, what on earth has happened to Senator Sherry over the past few years? Talking down the economy indeed! I always find it quite amusing when the Labor Party attempts to comment on, attack or denigrate this government’s economic performance. If we think back, we all know the Labor Party brought down nine deficit budgets in 13 years. While I am absolutely delighted to see Senator Cook back here, and I know he is going to make a contribution soon, Senator Cook himself was part of those 13 years of nine deficit budgets. Yet they have the temerity to come into this place and criticise the government for its current economic performance. If you were to ask Australians that you pass in the street, an overwhelming number of them would tell you that they have never been better off. That record compares with the Howard government’s record of seven surplus budgets in the last nine years. The facts prove it for themselves: nine deficit budgets in 13 years under the Labor Party; seven surplus budgets in the last nine years under the Howard government.

As a matter of fact, in aggregate—and I am sure Senator Cook is well aware of these figures—they recorded $74 billion of deficits, which is over 20 per cent of GDP, compared to the coalition’s record of $33 billion in surpluses, which is just under five per cent of GDP. So it is $74 billion of deficits compared to $33 billion of surpluses. I am sure those figures alone speak for themselves, and yet we have Senator Sherry coming in here having said he is not in the business of talking down the economy or talking up a crisis mentality.

The Labor Party, when in government, presided over the largest increase in government debt in Australia’s history—something we never hear Senator Sherry mention, something I am quite sure that Senator Cook will not mention when he gets up to speak. They presided over the largest increase in
government debt in Australia’s history, $70 billion of which has now been paid off thanks to the fiscal prudence of this government. I have told this chamber before about the 23 per cent interest rates that we were paying on our farm in the late 1980s. Labor presided over the highest nominal interest rates in Australia’s history, and yet they have the temerity to criticise a 0.25 per cent increase in interest rates, which means the current interest rate is well within the predictable band for the period of time and forecasting that we are talking about.

Senator Wong—What are the actual levels of payment?

Senator FERGUSON—Senator Wong, I am pleased you are here because, when the Leader of the Opposition, Mr Beazley, was the finance minister in 1994, the standard variable home loan interest rate was 9.5 per cent—two per cent higher than it is today. At that time, when he was questioned by the then opposition—my colleagues—this is what Mr Beazley told the parliament about interest rates:

I point out that this is still a very low interest rate regime in Australia’s historical standards.

It was then a very low interest rate regime at 9.5 per cent, and yet the members opposite have the temerity to come in here and say that the 0.25 interest rate increase that occurred last week is going to devastate Australia’s economy.

Senator Coonan—They’re chicken littles.

Senator FERGUSON—That is right, chicken littles indeed, Senator Coonan. Mr Beazley says that 9.5 per cent is a very low interest rate regime by historical standards and yet they criticise the current interest rates, which are some two per cent lower. Mr Beazley tries to have it both ways. Labor claims that interest rates are too high now and yet when they were in government and the rates were two per cent higher they were quite historically low. I would advise Senator Wong and Senator Cook to go back to their leader and remind him of what he said only a short time ago in 1994 when he was minister for finance.

The Labor Party may have changed their leader but they still have no plans whatsoever to keep Australia’s economy strong. Only just very recently, businessman Evan Thornley, who spoke at the meeting of ALP members in Melbourne recently to discuss making the party more relevant to its rank and file members, said:

I don’t understand why some people in the Labor Party don’t think the economy might be important to the people we claim to represent. If we don’t give them confidence on the economy, we can’t expect them to vote for us on health and education.

The sound economic management of the Howard government is why Australia’s voters keep returning us election after election. It is why the Labor Party are being rejected election after election—because they simply cannot make up their mind. Is a 9.5 per cent interest rate historically low? Is the current interest rate we have, which is some two per cent lower, too high? I think they need to really make up their mind whether 9.5 per cent is high or whether the current 7.3 per cent rate is high. I think the Labor Party ought to make their mind up, and then perhaps the Australian public and the Australian voters might think that they have some, just a little, economic credibility.

The standard variable mortgage rate has fallen from 10.5 per cent to 7.3 per cent since this government came to power, and has been lower at various times, saving Australian families around $565 a month on an average new mortgage. Under the previous Labor government, the standard variable home loan rate averaged 12.75 per cent compared to 7.13 per cent under the coali-
tion. A reduction in interest rates from 12.75 to 7.13 would save Australian families, on average, $993 per month in interest charges on the average new mortgage.

The Reserve Bank of Australia’s most recent Statement on monetary policy, finalised on 3 February, is optimistic about the economy. They are optimistic about the economy; the Labor Party opposition is always pessimistic. The Statement on monetary policy states:

Most economic data in Australia have continued to suggest strong conditions recently. Particularly noteworthy in recent months has been the performance of the labour market, with employment posting a series of big increases and the unemployment rate declining to its lowest level since the 1970s. In addition, most business surveys reported conditions that were at high levels throughout 2004—while over the past period of time—

... consumer confidence has been close to record levels. The high level of confidence was also reflected in the Australian share market, which outperformed the markets of all other major countries during 2004. So where are the bad signs that Senator Sherry keeps talking about in Australia’s economy? One of the greatest achievements of this government is creating the economic environment for job creation. It is worth putting it on the record, yet again, that since the Howard government came to office in March 1996 over 1 1/2 million jobs have been created. I noticed with interest that today the Minister for Employment and Workplace Relations, the Hon. Kevin Andrews, released the labour force statistics for February. It doesn’t sound like economic gloom to me. Australia’s unemployment rate was unchanged at 5.1 per cent in February, and it remains at its equal lowest level since November 1976—almost 30 years. We now have the equal lowest level of unemployment since all that time ago.

Think of the full-time jobs that have been created. Seasonally adjusted employment increased by 20,000 in February to a record high of nearly 9.9 million. Full-time employment increased strongly, up by 37,900 to a record high of 7,079,000, while part-time employment declined. So the employment statistics are telling us that not only are we creating jobs, we are also creating full-time jobs, which are so important to a strong economy. For an economy that is going sour, as the Labor Party would try to have us believe, it is most significant that nearly 325,000 jobs have been created over the past year, more than three-quarters of which have been full-time positions. The level of unemployment remains 62,000 lower than a year ago and the seasonally adjusted participation rate was a very high 64.1 per cent in February.

With all this sound economic management, which has produced these amazing figures, state governments have an incredibly important role to play in supporting the economy.

Senator Buckland—Speak for yourself.

Senator FERGUSON—In my home state South Australia—and Senator Buckland will be well aware of this—we have seen a state Labor government that continues to threaten the thriving economic conditions resulting from the Howard government’s policies. The ABS figures for December 2004—I am going to give you some figures, Senator Buckland, in case you were not aware of them—indicate that South Australia had the lowest increase in exports of any state in the country. New South Wales increased by 15.9 per cent, Queensland by 14.1 per cent. Where is South Australia? It is at the bottom of the list with a 3.5 per cent increase in exports in 2004. It says here—I am sure you would be aware of this, Senator Buckland—that:
It should be noted that, in the last year of the state Liberal government in South Australia, exports grew at the fastest rate of all states, a rate almost eight times faster than the export growth for Australia. It was 9.9 per cent in the last year of a state Liberal government, compared to 1.3 per cent around Australia. The Rann government’s proposed industrial relations reforms also threaten jobs as they try and deregulate South Australian workplaces. State governments have a very important role to play.

Senator Buckland—Get real! You don’t know what you’re talking about.

Senator FERGUSON—The best thing you could do, Senator Buckland, is to take back to your colleagues in South Australia the fact that they currently have the poorest statistics in Australia on export growth. Re-regulating the workplace with their new workplace reforms can only harm their performance more.

I was quite surprised that, in this notice of motion moved by Senator Ludwig but spoken to by Senator Sherry, part (b) calls on the government to implement policies that will lift the productive potential of our economy. Nothing more has been done in recent times than has been done by this government to increase the productive level of our economy. You have only to go through the statistics. The Labor Party hate to hear the statistics. Is unemployment at a 30-year low the sign of an economy that is going down the shooter?

Senator Buckland—Talk about real jobs, not part-time or casual.

Senator FERGUSON—I take your interjection because nearly all of the jobs out of the 325,000 that have been created in the last year—three-quarters of them—are full-time jobs. There were 245,000 new full-time jobs in this last year. Following the increase in February, the total tally of new jobs created since this government was elected in March 1996 has risen to 1,560,900. More Australians are in work than ever before and participation rates are at record levels, yet Senator Sherry comes in here and has the temerity to tell us in this chamber that there is something wrong with our economy.

I have a number of colleagues that want to make important contributions to this debate. My colleague Senator Fifield, who has a long history of work relating to the economy, will further outline some of the important economic factors that are in place and that make Australia the place it is to live in today. Every serious economic indicator tells us that this economy is in a very sound position: in total jobs growth, in jobs per month and in the number of total unemployed currently in Australia. There were 934,000 in 1992. Unemployment has fallen by 207,000 or 28 per cent since that time. The participation rate is the highest it has ever been. Teenage full-time unemployment is down from what it was in 1992. The unemployment rate is down. Unemployment in relation to the population is down. To suggest that a 0.25 per cent increase in interest rates—which is a very minor adjustment considering the adjustments that took place between 1983 and 1996—would undermine confidence in the Australian economy is a load of bunkum.

The Australian people re-elected this government for the fourth time, having confidence in the economic management that it has shown to this country over the past nine years. They were not wrong when they said: ‘You are best placed in Australia. You are the best party, the best government that we can possibly elect to run this economy in the manner that we want it run.’ I reject totally Senator Ludwig’s notice of motion.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (5.06 p.m.)—I rise to speak to Senator Ludwig’s notice of
motion No. 93. An uninformed person reading that motion might get the impression that Australia is an economic disaster. The notice of motion reads a bit like a tale of doom and gloom that Edgar Allan Poe would be proud of. The reality, of course, is much more positive: Australia’s economic performance is the envy of the Western world. Last month the OECD released their annual report on the Australian economy and they were particularly complimentary of Australia’s record of economic reform during the past 10 years, a period in which the Democrats played a key role in both industrial relations and taxation reform. The OECD report says:

In the last decade of the 20th century, Australia became a model for other OECD countries in two respects: first, the tenacity and thoroughness with which deep structural reforms were proposed, discussed, legislated, implemented and followed-up in virtually all markets, creating a deep-seated “competition culture”; and second, the adoption of fiscal and monetary frameworks that emphasised transparency and accountability and established stability-oriented macro policies as a constant largely protected from political debate.

The OECD report recognises the benefits that these structural changes have achieved, stating:

Together, these structural and macro policy anchors conferred an enviable degree of resilience and flexibility on the Australian economy. The combination resulted in a prolonged period of good economic performance that shrugged off crises in its main trading partners as well as a devastating drought at home. The short-term outlook is for continuing strong growth of productivity and output, low inflation and budget surpluses accompanied by tax cuts.

I think the reality of the Australian economy is somewhere between the ‘sky is falling in’ approach of Senator Ludwig’s motion and the glowing with pride ‘all is fine’ commentary that we are hearing from government senators in this place.

The positives are very obvious. Australia has its lowest unemployment rate in 27 years. An unemployment rate of about five per cent was once thought to be virtually impossible to achieve, but again today’s monthly figures show unemployment is steady at 5.1 per cent. Another 20,000 people are employed, increasing the participation rate and pushing the number of employed Australians close to the 10 million figure. Offsetting that good news, of course, is the fact that we have seen an increase in low-income jobs, particularly for women—something I mentioned earlier this week in the chamber.

The Australian economy has, however, grown steadily for the past five years and we have not had the recessions that have been faced by the United States, by Japan and by most of Europe. During this time the Treasurer has been stashing away budget surpluses. We are estimated to have a $10 billion surplus this financial year. The Democrats would like to see sound proposals to invest this additional money in our hospitals, schools and infrastructure, and we have said many times in this place how we would like to see that happen. Unfortunately, I think that is unlikely. The expectation is that the Prime Minister and the Treasurer will give another—yet another—exclusive tax cut to high-income earners. We say that that tax priority is all wrong.

The latest OECD tax figures, released today, show that low- and middle-income families face unfairly high effective marginal tax rates. This problem takes away the incentive for people to get off welfare or to get back into the work force and simply takes money out of their pockets that they need for things like feeding their children. For every extra dollar that a middle-income earner gets, the OECD report recognises that they will keep less than 40c. Of the $1 they earn, over
60c goes to the federal government in income tax and clawbacks in family payments.

In last year’s budget, the government gave $14.7 billion in tax cuts; that was to only those earning over $52,000. Our preference has always been to help all Australian taxpayers. With this $14.7 billion we calculated that every Australian could have received a $10 a week tax cut. Instead, the ALP supported the government in giving $42 a week to the highest income earners and nothing—absolutely nothing—to low- and middle-income earners. Our tax system starts taxing people when they earn more than $6,000. That is half the level of the poverty line, or what you might call the subsistence income level. The Democrats say it is time that we adjusted that; it is crazy that Australia imposes tax on people who live below the poverty line of around $12,500, much less people who earn half the amount of the poverty line. It beggars belief that we would do this to people on such low incomes.

Despite all the good economic news, there are some very serious clouds on the horizon. The government cannot possibly deny the first part of Senator Ludwig’s motion that notes the state of our current account deficit and the fact that net foreign debts are at record levels. Net foreign debt is now $422 billion, or 49.2 per cent of GDP. It averaged only 34 per cent of GDP during the Hawke-Keating government and seven per cent during the Fraser government. The current account deficit is now running at $15 billion per quarter, or 7.1 per cent of GDP—a huge figure in anyone’s calculations. To put this in context, the current account deficit averaged only 1.4 per cent of GDP during the Whitlam government and 4.6 per cent during the Hawke-Keating era.

We are not the only ones who are worried about this. The Reserve Bank has also raised concerns about the high level of the current account deficit, which is above that which prompted former Prime Minister and Treasurer Keating to warn that Australia was becoming a banana republic. The current Prime Minister last month said:

I am not the least bit pessimistic about our capacity through export performance to reduce the imbalance and what is … a very large current account deficit over a long period of time.

Unfortunately, the Reserve Bank is not quite so optimistic, noting that ‘growth in Australia’s export volumes has remained weak over the past year or so, despite the growth in global demand and world commodity prices, with total exports virtually unchanged from four years ago’. It is little wonder that just in the last couple of days the Treasurer has been talking about doubling the output from Olympic Dam, but even that will not make enough difference—even if it was a good idea in the first place, which it is not.

The economists tell us that the numbers themselves do not necessarily reveal the true impact of the current account deficit on interest rates. If the capital inflows allow Australians to invest in new plant and equipment, social and economic infrastructure and education, and research and development, in the long term this will improve Australia’s trade performance. This is the so-called J-curve.

Unfortunately, this government has reduced spending on education and long-term research and development. At the same time the state governments have reduced their infrastructure expenditure. Instead, the capital inflows have funded consumer spending and the property investment boom. Neither of these items improves our current performance but they have been encouraged by the government’s tax cuts for high-income earners, negative gearing, capital gains tax concessions and, of course, the $66 billion of budget bribes that we saw at the last election.
Consequently, the Reserve Bank have warned that we are likely to face further increases in interest rates to cool rampant consumer spending and reduce inflation. The Australian Democrats do not want to see higher interest rates or a slowdown of our economy. The only way to improve our trade predicament is to boost exports. The Australian government has to make that happen.

Senator Cook interjecting—

Senator ALLISON—Unfortunately, Australia’s trade figures will continue to get worse as a result of January’s tariff reductions for imported cars, clothing and other goods, which no doubt, Senator Cook, the ALP will support. Their policies of winding back export market development grants, reducing incentives for research and development and reducing tariffs have contributed to Australia’s poor trade performance. The Australian Democrats have policies that will improve Australia’s trade performance. We are prepared to share our ideas, as always, with the government.

Firstly, we would recommend freezing further tariff reductions unless they are matched by our trading partners. We would restore full funding to the Export Market Development Grants Scheme. We would like to see a review of business taxes and capital gains tax to encourage longer term productive investment rather than short-term speculation. We would also restore the tax deduction for business research and development to 150 per cent. We would put more money into public education and training to address Australia’s skills shortage. Finally, we would improve the low participation rate of women in the Australian work force by promoting more family-friendly policies, such as paid maternity leave, flexible workplace practices and low-cost child care.

The Democrats believe that the Howard government should include improving Australia’s export performance as one of its key priorities for its fourth term. Unless there is significant structural reform to improve our trade performance, the legacy of the Howard-Costello government may be a banana republic with high interest rates and a dangerously unbalanced economy. Having said all that, we do not subscribe to the ‘sky is falling’ mentality. There are clouds on the horizon for the Australian economy but we believe that the ALP should acknowledge the very good performance of the Australian economy over the past decade and that if we put in place the proper measures to make sure this continues then the outlook can be very positive.

Senator COOK (Western Australia) (5.17 p.m.)—There has been a lot of fatuous nonsense this afternoon, as is normally the case. Last week I clicked up 22 years in this place, and I have now given up expecting a sensible economic debate in this chamber. What we have done in this chamber is trade statistics without any basis, make a series of allegations without any justification and present a distorted picture to pretend that one side is better than the other. There has not been very much serious analysis of the underlying flaws in the economy. If this chamber is to serve any function, it ought to engage in a more serious debate rather than simply trade accusations.

We just had from the Australian Democrats a little bit of this and a little bit of that. They took credit for the performance of the Australian economy and cited two things that they have done—collaborated with the government on industrial relations change and collaborated with the government on tax—as if those two things have made any difference. On industrial relations, we have had a worsening of the industrial relations climate in Australia by virtue of the changes they supported. On tax, we have had the GST, which has caused Australia to now be one of the
highest taxing countries in the OECD and us to have a record burden of tax in Australia. They cited, of course, the OECD report on the Australian economy. They do not seem to understand that the Australian Treasury writes or has an influence on a large proportion of that report. In a funny sort of way, it is pretty much us talking to ourselves about how good we are rather than some independent auditor analysing objectively and fairly what the economic performance is. So I have come to expect a fair bit of fatuous nonsense.

The economy is not as good as the government pretends it is. There are worrying signs appearing. The cracks in the facade are beginning to show the underlying, structural flaws in the economy. There is no sign on the government’s side that it intends to address those. The government is arguably good at managing perceptions that the economy is okay. It is not good at providing leadership where the economy needs that leadership. It may well have stolen the last election because it succeeded in managing perceptions about economic management, pretending that it was the responsible party that delivered it and blackguarding the opposition’s record unfairly about economic management, but none of that is a substitute for the serious economic work that needs to be done in Australia. Sooner or later we have to deal with the reality.

This afternoon we have had, predictably, government spokesmen saying: ‘We’ve done this. This is what Labor did nine or 10 years ago.’ What they have said about Labor is by and large untrue. But that does not matter—they continue to mouth those platitudes. Sooner or later, the government will have to—even in this chamber—argue what it is doing today in today’s circumstances given the problems of today and the challenges of tomorrow, and stop trying to live on a past comparison that bears no semblance to reality. I hope that the budget might be a basis for that in two months time but, on past performances and on the current showing, we can expect more smoke and mirrors and sideshows rather than the main game being addressed. Let us put aside the silly speech we got this afternoon in question time from Senator Abetz in which he quoted stats that he shows by his quoting of them he does not really understand, in which he mouthed slogans without any meaning and in which he sneered at false assertions he had set up—assertions which bear no relation to fact. Let us put aside all that type of debate and go to what I think are some of the biggest problems we are facing.

Firstly, we have the biggest tax burden that we have ever had in this country. We can engage in semantics about this. The government will pretend that the GST is not a tax and is therefore not part of the tax burden for the sake of this calculation. They will pretend it is a state tax. It is not a state tax; it is a tax we enacted in this chamber with the support of the Democrats, and it goes to the level of causing Australians to shoulder the biggest tax burden we have ever had. We are now talking about a shortage of skilled labour—and I will turn to this in more detail in a minute. In this country, we pinch skilled labour off other countries that have invested in training in skilled labour through our immigration program. One of the serious disincentives for immigration whereby we rob others who have trained tradespeople of the return from their training by bringing in such migrants is the high level of taxes people face in this country.

On the front page of the *Australian* today—and I will not hold it up as it would be against the standing orders—there are four graphs showing the evolution of the tax burden. I draw senators’ attention to them. The article shows in a time series graph over the years 1996 to 2004 Australia compared to New Zealand, compared to Britain, com-
pared to the US. The growth in taxes in this country outstrips any growth in taxes in the other three countries. Worse still, the direction of tax change in this country is more sharply upwards than anywhere else. It is a heavier tax burden that is getting worse compared to our neighbours.

We want to attract skilled migrants but, when they look at our tax rates in this country, they will turn tail and go to New Zealand, they will stay in Britain or they will hightail it to the United States instead of coming here. It is historically a high level of tax—as I have said, there is a denial of the GST, and the tables that I have just referred to unmask the levels of taxes. That has to change, and it has to change now. This government cannot wait until the eve of the next election, hoard surpluses that bracket creep gives it—not through anything it does, but simply because bracket creep creates a higher tax take for the government—hand back a tax take of less than it has achieved through bracket creep and pretend that it can buy another election, if it does, topped up by the sale of Telstra so that it is all cashed up and ready to buy votes next time. This government has to stop playing politics with the tax system and focus on fundamental and proper reform, and do that with a sense of greater equity that it has ever shown it has been prepared to. In the past, this government has shown it is prepared to pitch its tax changes at voter-sensitive cohorts rather than at areas of real need. It ought to start applying an equity break to its tax reform proposals.

One of the other things that I think this government are blinkered ideologically about is having a sensible discussion about industrial relations and wages. In this country, this government, along with a lot of people in business, take a one-dimensional view of wages. They see it simply as a cost. They do not see it as contributing to purchasing power for households. They do not see it as setting up a body of aggregate demand to enable ordinary Australians to live with some dignity and with an ability to meet their debts. They just see it as a downside and as a cost in a one-dimensional, not two-dimensional, way. Moreover, they do not see the total wages bill as an investment for the country. That is why we are now in this bizarre situation whereby that sector of the economy that employs tradesmen is shrinking to be smaller now than it ever has been and therefore fewer tradesmen as a proportion of the overall demand in the economy are needed. We are short of tradespeople in those circumstances.

We have had no real planning about how to manage the labour market, we have had no real forethought about how we meet our skills deficit and we have had no real incentives to encourage a more effective training regime so that we do not have to pinch the skilled labour that other economies have invested in training by trying to attract them as migrants. We should train our own Australians—the over one million people who are unemployed—to provide them with a stepping stone to meaningful work and remuneration rather than keep them locked into a cycle of unemployment or underemployment by virtue of trying to attract migrants to top up our skill needs without squarely facing up to the need for us to train people ourselves. Of course, on top of that, as I said earlier, it is recognised that the tax system itself is a disincentive to migration.

The government maintains an ideologically blinkered attack on unions. That skews the whole debate about the labour market. It is off chasing issues that are irrelevant to the total balance of the labour market and is doing so for political effect rather than for economic reform. As I said, the skill shortages in the blue-collar area and, coincidentally, the changes that this government has made to
industrial relations will enable workers with skills to push up their incomes much more than they would have been able to do under the earlier system or under the system that the Labor Party favours. Therefore, we will have an unnecessary wage blow-out in the blue-collar area by virtue of the government’s industrial relations changes. Those workers will be able to maximise their returns and will be able to do so after the high burden of tax that they will have to pay.

I want to now say a few words about the Reserve Bank. We have seen what I think has been a bit of a charade over the last week or so since the Reserve Bank announced changes in interest rates. No-one in this country—certainly not the government; they cannot and will not do it, and nor should they—is proposing that the independence of the Reserve Bank be eroded. It is necessary for the Australian economy to be marked up for foreign investors and to be regarded as an open economy for the Reserve Bank’s independence to be protected. We have seen the Prime Minister try to stare down the Reserve Bank and misdirect it away from facing up to its responsibilities under its charter—that is, to make balanced judgments about the economic data in front of it—to bring about a political solution. That is what the Prime Minister has tried to do on one level.

But, of course, at another level what we have seen is a massive redirection of the public’s attention as the government yet again tries to manage perceptions about who is responsible for the interest rate hike. There is one answer to that: it is not the Reserve Bank; it is the government. You do not have to go back any further than the last federal election to see why. In the last federal election, this government spent like a drunken sailor. At the last federal election, it was not as if there were not indications from the Reserve Bank and other important sources of governmental advice on the economy that the government was overheating the economy by the giveaway promises that it was making to try to win the election.

When, as a result of that, the economy responds and the Reserve Bank has to act accordingly, who gets the blame from the government? There is no mea culpa from the government; it is an attack upon the Reserve Bank. The responsibility for the current interest rate increases is squarely with the government, which is in charge of fiscal policy and in charge of the giveaway campaign it ran in an irresponsible way in the last election campaign. But we hear nothing about that. Obviously we will not hear anything about that, but that is where the true perception of the current circumstances sits. The government has the fiscal management lever. The government can manage the economy more successfully so that the Reserve Bank is not put in that situation.

Senator Sherry talked about the record level of household debt in this country. He referred to the fact that household savings have gone negative—that is, we spend more than we earn and we have no money for savings; we have depleted our savings. That has occurred in households continuously over the last five years. Family budgets cannot withstand any more interest rate hikes, but the government is trying to shift the blame onto the Reserve Bank and not onto itself.

I also want to say something about the record trade deficit. It stands now at $15.2 billion, or 7.1 per cent of GDP. It is a record trade deficit after seven years of trade deficits in a row. Of course, we know that the trade deficit will put an upward pressure on interest rates. We know it is not helped by the appreciation of the Australian dollar. We know the Australian dollar is, in international exchanges, marked as a resources dollar and, as a consequence of high resource demand and demand for Australia’s resource and en-
nergy exports, our dollar gets pushed up. We know that has a bad impact on the rest of our exports. We know those things are true.

But what we lack, and where I believe the next real considered response of structural change—not surface or window-dressing change—in the Australian economy needs to be focused, is the right connection between industry development policy in this country and our trade policy, to bring down our trade deficit, to ease the pressure on exports and to diversify our export base so it is not almost exclusively dependent on mineral and energy commodities. Our agricultural commodity exports are declining in absolute and percentage terms at the same time as our mineral commodities have gone up.

Senator McGauran—Not absolute. In percentage terms maybe—

Senator COOK—They are going down. Our agricultural exports are declining. Senator, I will not be diverted with a long dissertation as to why that is the case, but it is the case. I refer you to the statistics on it. We need to diversify our industrial base. The structural challenge that we have not yet met as a country and the challenge that sits clearly in front of this government is to lever off our resource exports into a more value-adding economy than we currently do and not simply give away our minerals in a highly competitive market or take advantage of windfall gains when, because of high demand from China, prices move temporarily in the upward area.

That is a structural flaw that the Democrats in part referred to. But the Democrats’ solution was once again to freeze tariffs. Once you start doing that and once you start threatening you will not reduce tariffs any further until your competitors do it, you are on the slippery slope to higher protection. That is something that the Democrats have never understood and insist on not understanding. There is no point in having a debate with them about it; they see a populist vote in that and so they will go down that route no matter what. Some of the other suggestions the Democrats made about how we might diversify our export base were to some extent sensible. I want to refer to a few of them myself.

Where the rot began to set in in the first place was the 1996 slash-and-burn budget when the government came to power. It referred to this fictitious artifice: the so-called $10 billion black hole, which is of course a joke. In effect, that is a projection of Treasury figures as if nothing would change. It is not a figure the Treasury actually reported to the government. It is a construct. Let us get that clear: it is not a figure that the Treasury reported to the government; it is an invention based on constructing and projecting from some figures that were available at the time. There was no deficit at that level. However, in the managing of perceptions, the government has sold that as an article of faith and it seems to be believed.

Based on that justification, the government cut a lot of industry programs. One of the biggest blow-outs in the economy is the importation of IT. One of the things that the government cut in the 1996 budget, when the rot really set in, was the computer bounty. We used to make computers in this country. That saved us from importing them. If you look at the cost to the Australian economy of importing IT equipment, which is an enabling technology necessary for us to be a competitive country, that is the biggest single cause of the blow-out in the cost of imports to this country. We do not supply them anymore. In making a sensible trade-off between the cost of the bounty and the keeping and supplying of those necessary goods to the Australian economy through internal production rather than imports, we have started down the slippery slope of being entirely
reliant on other countries to supply products
necessary to make us a competitive country.

We had the scientists here this week talk-
ing to the parliament. A lot of what they said
deserves listening to, because we also cut
research and development incentives. We
also cut incentives to encourage scientists to
commercialise their products and their inven-
tions and shifted the onus onto the backs of
scientists—taking them away from their craft
of invention—rather than putting it on the
backs of entrepreneurs who are the people,
in the commercial sense, who have the respon-
sibility.

Mr Acting Deputy President, I have a lot
more that I would like to say but I cannot go
into it now because I am out of time and you
are about to call me to sit down. I do hope
we can have a sensible debate about what the
real structural problems of the economy are,
because there may well be some degree of
consensus about some of the solutions. If
there is, then this nation can move forward.
But if we get into this barracking thing about
fictitious arguments, as we have seen in
question time and which bedevils this debate
all the time, then this chamber will not serve
any genuine purpose in public debate.

Senator FIFIELD (Victoria) (5.37
p.m.)—Senator Ludwig has moved today
that the Senate note the deterioration in the
Australian economy. This is obviously some
strange use of the term ‘deterioration’ of
which I was not previously aware. To listen
to senators opposite, one could be forgiven
for thinking that they were describing—with
all due respect to Senators Murray and Ell-
ison—the Zimbabwean economy rather than
the Australian economy. Those opposite
would have us believe that we are living in a
high-inflation, high-interest rate, stagnant
economy with unimaginable capacity con-
straints and poor investment by the national
government in infrastructure. What are the
facts? The Australian economy has been
growing steadily for over a decade since ‘the
recession that we had to have’. A couple of
weeks ago, former Prime Minister Paul
Keating and his former chief of staff Don
Russell stood by the fact that we needed to
have that recession. We have not forgotten
who gave us that recession and neither have
the Australian people.

Interest rates, which Labor have been talk-
ing about ad nauseam over the last few days,
still remain at record low levels. Under the
previous Labor government—and we should
never forget that Mr Beazley was an integral
part of the government for every single day
of the Hawke-Keating government—the
standard variable home loan averaged around
12.75 per cent and the official cash rate
peaked at 18.15 per cent in November 1989.
The standard variable rate has fallen from
10.5 per cent under Labor to 7.3 per cent
since we came to office. Australian families
are saving $565 each and every month on the
average new mortgage. As we on this side of
the chamber have always said, and will con-
tinue to say, despite misrepresentation from
the other side, interest rates will always be
lower under a coalition government than un-
der a Labor government. We have never said
they would not move. Interest rates do move;
that is what they do. However, they will al-
ways be lower under a coalition government
than they would be under a Labor govern-
ment.

We had some fantastic news today. The
unemployment rate, according to the ABS
statistics, remains unchanged at 5.1 per
cent—the lowest level since 1976. Under this
government, since March 1996 over 1.5 mil-
ion jobs have been created—324,900 jobs
over just the last year, more than three-
quarters of which have been full-time posi-
tions. The CPI for the year to December
2004 was comfortably within the inflation
target band at 2.6 per cent. Underlying
measures of inflation published by the RBA range from two per cent to 2.4 per cent for the period. Inflation has averaged 2.4 per cent since 1996, compared with an average inflation rate of 5.2 per cent for the period that Labor were last in office. We are hearing a lot about capacity constraints and the need to skill workers. The number of Australians doing a new apprenticeship has increased from 141,000 in 1995 to the current level of 394,000. Since September 1996, there has also been an 18 per cent growth in new apprentices in the trades and related occupations—from 126,100 in 1996 to 148,400 in September 2004. Since 1996, there has also been a massive investment by the government in roads, rail and telecommunications, some areas of which are the core responsibility of the states, not the Commonwealth.

For nine years those opposite have been talking the economy down. Today, Senator Sherry and others opposite are continuing their scaremongering. There is absolutely nothing new in this approach. In 1998 when Mr Beazley was in his last incarnation as leader, he said, talking of the government:

... they are not ahead in terms of who’s better to manage the economy and neither should they be. They took a baseball bat to it two years ago to make a political point about us and they left us with a lower level of growth ... And the public are not going to thank them for it.

It is very interesting to look back at the pattern of Labor’s comments on the economy. That comment by Mr Beazley is not an isolated one. In the aftermath of the 1997-98 Asian economic crisis, Simon Crean—of whom we do not hear a lot these days from the other side but of whom some of us on this side are still quite fond—said:

In essence, the Treasurer has fireproofed the economic car by taking out the petrol ...

We do risk an economic crisis of major proportions.

That was during 1997-98. Australia weathered the Asian financial crisis and grew by 4.8 per cent—so much for an economic crisis of major proportions. We survived the Asian downturn, so Labor had to find a new scare campaign. They found the GST. Kim Beazley started to blame interest rate rises on the GST in 2000:

These interest rate rises, along with their predecessors, have one vital set of origins—GST.

Within six months it was the opposite argument and he said:

... these interest rate cuts are a direct result of the Government’s GST mugging the Australian economy ...

Back then it was ‘GST puts them up; GST brings them down.’ Labor also thought that the GST would result in the economy growing too quickly. In 2000, Kim Beazley said the tax package:

... runs the risk of fuelling consumption and overheating the economy.

The fiscal stimulus, as we know, came at just the right time, undercutting Labor’s argument. Labor’s assault had to start again. It needed a new angle. Simon Crean said:

... the GST didn’t just mug the economy; it king hit it.

Kim Beazley said in 2001:

This is an Australian homegrown recession ...

At the time he said that, the economy was growing at 1.1 per cent. Labor are so brazen that they actually acknowledge that they changed their position. In 2001, Kim Beazley said:

I’ve shifted my position to: I hope there won’t be a recession. That’s my position now. Far from talking down the economy, I’ve been trying to help as far as Opposition Leaders can.

We can do without that help. In 2001 Mr Beazley was at it again, saying:

This is not economic management—it is economic mangling. What we have now are a bunch of economic manglers, not economic managers as they run a budget demolition derby.
Strange, strange, strange. The coalition has always acted in the best way that any government can in order to take pressure off interest rates and that is to reduce government debt. Senators opposite are quite coy about making the link between government debt and pressure on interest rates. We know why: when the coalition came to government we inherited a net government debt of $96 billion—that is a fact despite what Senator Cook might say—and we have reduced that debt from $96 billion, or 19 per cent of GDP, to $25 billion or three per cent of GDP. That is a reduction from $5,200 per Australian to around $1,200 per person. It is no secret why. Labor do not like to talk about the link between foreign debt and the current account deficit and net government debt. It is because Mr Beazley was Minister for Finance in the lead-up to the 1996 election. Often when I stand in the chamber I cannot resist the temptation to bring out what is one of my favourite clips and I know is one of Senator Kemp’s favourite clips, which is from the Age of 1 February 1996:

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

We know the result—a Beazley budget black hole—but since that time the government has not borrowed one dollar in net terms. We enjoy the lowest level of government general net debt in the developed world—lower than Germany, lower than the total OECD, lower than the EU, lower than Japan, lower than the US—and we are committed to maintaining low levels of government net debt. It has been important and it continues to be important to maintain surpluses while consumer confidence is high and people are borrowing and business is investing. We continue, as a government, to add to savings to reduce pressure on interest rates.

Government budgets also, as I have said, have a link to foreign debt. It is another link which senators opposite shy away from mentioning. It does have an effect on foreign debt and the current account deficit: the more governments borrow domestically, the less money there is to borrow and invest in Australia, meaning that people have to borrow overseas. It is a pretty simple equation. Since 1996, the share of net foreign debt owned by the general government sector has fallen from over 17 per cent to under five per cent. Since 1996 the debt-servicing ratio has fallen to around nine per cent. Under the previous Labor government the debt-servicing ratio rose as high as 20 per cent. In 1990, 20 per cent of exports went towards paying the interest on net foreign debt.

If Labor were in office, there would be a much higher level of net government debt, which would have an effect on our foreign debt. What is important is a country’s capacity to service that debt. I would like to quote some authoritative sources on this particular aspect—the capacity of a country to service its foreign debt. I will ask senators to turn their minds to who possibly may have made these comments:

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

That was Kim Beazley in 1995. Fair enough, but let us not just rely on Kim Beazley:

Debt is not a bad thing as long as you can support the debt, as long as you can repay it, so long
as the borrowings are going into the economy and producing productive investment, producing jobs. That was Nick Sherry in September 1995. Debt is not a bad thing as long as you can service it. The Australian economy has the capacity to service our foreign debt.

Labor have changed their story yet again. The reality in Australia today is we have strong growth, high employment, low unemployment, low inflation and low net government debt. There are indeed some economic challenges in this environment associated with capacity constraints—we do not deny that—and we have been pursuing policies to address that. But we could stand a little help from the other side. If those opposite are serious about pursuing changes to remove constraints on our economy then we would welcome their support for our workplace relations agenda. Perhaps those opposite have forgotten that over 30 workplace relations bills have been blocked by them since the government came to office in 1996.

We have been hearing a great deal from Labor about skills shortages and capacity constraints. I would like to let senators opposite in on a great economic secret, something that is clearly a mystery to the caucus economic committee and Mr Swan: skills shortages will be at their highest in a strong economy with low unemployment. We cannot be too harsh on Labor for not getting that point. Low unemployment and a strong economy is something that senators opposite have no experience with.

Let me explain what happens in a strong economy with low unemployment: you have more jobs chasing fewer people, as opposed to a weak economy with high unemployment, where you have more people chasing fewer jobs. There is something else that senators opposite might not know: there is not just a skilled labour shortage; there is also an unskilled labour shortage. There is a labour shortage in Australia because unemployment is low. This is not a skills issue; it is a labour shortage issue. It is the consequence of a strong economy.

Go to Shepparton—if Labor senators venture that far—go to the fruit picking areas and you will find there is a huge shortage of pickers, a huge demand for unskilled labour. We all know what Labor’s solution is to a labour shortage; it is the easiest one in the world: kill the economy. We saw that under Mr Keating. Kill the economy, and you have plenty of labour. There is plenty of labour of all sorts if you kill the economy—skilled labour, semiskilled labour, unskilled labour—just not many jobs. Labor talk about a failure to invest in skills and trades. Under Labor, year 12 completion and a university degree became the ultimate academic achievement. Under Labor, a stigma actually became attached to undertaking a trade and doing training.

On this side of the Senate, we want a good trade to be as highly valued as a good university degree. That is why we are providing $2.1 billion per year for vocational education and training, which is a real increase of 57.5 per cent in the Australian government’s overall funding to vocational education and training between 1995-96 and 2004-05. The skill shortage is a product of a strong economy, of low unemployment; nevertheless, we are making a massive investment in the skills of Australians.

At the election just past, we announced the establishment of 24 Australian technical colleges to promote pride and excellence in the teaching and acquiring of trade skills. That is a good thing to do. From 1 July 2005 we are extending eligibility for Youth Allowance and Austudy for over-25s to new apprentices. This will benefit up to 93,000 new apprentices by 2008-09 at a cost of $410 mil-
lion over four years. These are good and practical things that we are doing.

Senator Lundy—You said it was not a problem.

Senator FIFIELD—I never said that it was not a problem. It is a problem; it is a problem of a strong economy. It is a problem we actually want to have—a low unemployment rate. Despite that, we are still doing what we can to increase people’s skills and trades, because we want to give people options between skilled and unskilled work. We want people to have the choice, so we have made massive investment in apprentices.

Labor have also been talking a great deal about the need for infrastructure investment. The Treasurer was accused in the House during question time today of never having spoken about infrastructure in the House of Representatives. The first thing that came to the Treasurer’s mind was AusLink. He has spoken about that a few times. That is certainly infrastructure. He then thought, ‘The Scoresby Freeway is certainly infrastructure. I’ve been talking a great deal about that.’ You only have to turn to the Treasurer’s budget speech for 2004-05 to see a section headed ‘Investing in Australia’s infrastructure’. It talks about AusLink, and the Scoresby Freeway gets a mention, along with the Australian Rail Track Corporation. The government has a strong program of investing in infrastructure, despite the fact that state governments have the prime responsibility for infrastructure.

It is worth remembering on this side, as we like to do, that in 2004-05 all states will receive a windfall gain over the guaranteed minimum amount in the GST annual payments of $1.9 billion. This will grow to around $3.2 billion in 2007-08. So the states are rolling in money. They have absolutely no excuse for failing to invest in infrastructure. The states have learnt the lesson not to have a budget deficit; instead, they have put the money into teacher, nurse and police pay increases, but they have totally neglected infrastructure.

Senators opposite talk about capacity constraints. Let me tell you in four words what the greatest capacity constraint on the Australian economy is: the Australian Labor Party. The Australian public are intelligent. They recognise this and they did something about it at the last election. They voted to give the Senate more coalition senators to remove that constraint on the Australian economy.

We look forward to some policies from the other side of this chamber to address what they have listed in their motion as challenges confronting the Australian economy, but I do not hold out too much hope. Mr Beazley said on 8 March that he was going to:

\[\ldots\] hold them—

that is us, the government—

to account. You subject them to a bit of decent questioning, you put up, as the election approaches, a few decent alternatives … from the Labor Party’s point of view, we’re going to find much more focus on the sorts of questions we ask …

The worrying thing is that this comment about putting forward a few decent alternatives is very similar to what Mr Beazley said in July 2000, when he said, ‘You have to present an alternative vision, but only as you get closer to the election.’ So it will be the same old story of carping, criticism and consultation, but will we see a policy? Policies will be promised, the deadlines for them will pass and we will get to the death knock of the election before we see anything remotely resembling a policy. The Australian people recognise what the greatest capacity constraint on Australia is and which party and which government is best placed to look af-
ter the Australian economy. Their verdict was that it was this side of the chamber.

Senator LUNDY (Australian Capital Territory) (5.57 p.m.)—I found that contribution interesting in that Senator Fifield managed to draw out every cliche that the Howard government has carefully crafted to try and control the damage being done by the weakening state of various aspects of our economy. I think the point that my colleague Senator Peter Cook made was a very sharp one: this government is about establishing its own truth, establishing a slogan that purports to be economic policy and that, over time, through robotic repetition like that which we have heard in the debate this afternoon, somehow comes to be a given truth.

The fact is that, as Labor has sought to outline today, there are fundamental problems in the foundations of the Australian economy. Despite the economic growth that this country has experienced, we have seen a period of fundamental neglect in those basic foundations of the economy over many years—in fact, over nine years. Those foundations include the massive trade deficit that has developed—I will spend a bit more time on that later—and the tax burden that is now imposed upon Australian families. I think the OECD report and various questions, commentaries and exchanges in the chambers today, as well as newspaper reports, have characterised that discussion very well. Australians are paying an exorbitant tax burden, far more than I think many realise, and that is now being exposed.

The other issue is the inflationary effect of the $66 billion spending spree by the Howard government at the last election. It is worth while having a look at some of the quotes by Access Economics in relation to this spending spree, which my colleague, Mr Swan, outlined a couple of days ago. It led Access Economics to comment:

… if the official view is that Canberra should be spending on raising productivity and lifting participation, then the $66 billion … does not stack up terribly well against those yardsticks. They go on to say:
If we are right, and if recent spending has done little to further future growth, then Australian policymakers have muffed a last chance to cement our current prosperity for some time.

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—Order! The time allotted for the debate has expired.

DOCUMENTS
Commonwealth-State Housing Agreement

Debate resumed from 10 February, on motion by Senator Buckland:

That the Senate take note of the document.

Senator BARTLETT (Queensland) (6.00 p.m.)—As I have said a few times, we have a large number of documents, particularly annual reports, that are tabled in this place which provide an enormous amount of valuable information and often we do not sufficiently acknowledge the significance of their content or of the policy matters that are contained within them. This document is the Housing Assistance Act 1996 annual report for 2002-03, so the data it contains is nearly two years old. The slow process of compiling these reports remains a matter of concern, but I understand why: this report contains data of the performance of all of the state governments as well as the federal government in the area of housing. As I noted earlier today in speaking about the meeting tomorrow between state and federal housing ministers to talk about the funding for the next round of the Supported Accommodation Assistance Program to deal with homelessness, housing policy is fundamental. I do not believe it gets anywhere near the priority it should at federal level—or indeed in political debate at state and territory level. Unless we get the housing issues right, our ability to get
things right in all the other fundamental areas like employment, health and education is undermined.

We have to continually highlight the fact that government policies sometimes actively contribute to housing problems. In recent times we have had public debate about the deinstitutionalisation of people with mental illness and the fact that it has had the negative impact of greatly increased homelessness—which is not to say that we should not have had deinstitutionalisations, but it is to say that governments across the board were tempted to use that as an excuse to save money rather than putting in the resources necessary to provide housing for people with mental illness when they are in the community. That failure has flowed on to create further costs in other parts of the economy and other parts of the community. It is that failure at the housing level that has exacerbated many problems with, for example, mental illness.

I have raised questions about this a number of times over the years. Some of the more severe and inflexible aspects of our welfare policies, such as the breaching regime—which was a severe problem a few years ago—have made it extremely difficult for many people, particularly younger people, to keep a secure and regular roof over their heads. Other policies can contribute to failings in the area of housing and homelessness and I very much urge the federal and state governments, as I did earlier today, to make sure that they step up to the mark in meeting their responsibilities. Responsibilities at both state and federal level must be acknowledged. That is what this report is, in part, about.

I would like to focus particularly on my own state of Queensland, because the report does paint a concerning picture. It specifically notes that there has been a decline in the department’s traditional social housing responses. Overall stock numbers have declined, and increasing demand for housing was unable to be met—primarily due, according to this report, to CSHA grant reductions and increases in costs. Key trends over the previous four years include: a 5.5 per cent reduction in households assisted by public rental tenancies, which represents 3,158 households; an overall reduction of 750 public housing dwellings; and a 25 per cent increase in the public housing rental waiting list, to almost 30,000 applicants. At the same time increases in private rents have reduced housing affordability and choice for lower income earners. Again, that goes in part to taxation policies at both state and federal levels.

The continual finger-pointing that we see backwards and forwards between state and federal governments over expenditure on homelessness is simply escaping the point that we are failing at both levels on the fundamental aspect of housing. This report, I have noted briefly, shows that the government in my own state of Queensland are not doing as well as they should. They need to improve, and the federal government also needs to do more to put housing at the centre of the policy agenda across the nation.

Question agreed to.

Great Barrier Reef Marine Park Authority

Debate resumed from 10 February, on motion by Senator Buckland:

That the Senate take note of the document.

Senator BARTLETT (Queensland) (6.05 p.m.)—This document, relating to the Great Barrier Reef Marine Park Authority, also has a Queensland theme. As I have said many times, the Great Barrier Reef Marine Park is not just a natural wonder of the world but an economic powerhouse for Australia. Perhaps it is appropriate, with the Minister for the
Environment and Heritage in the chamber, that I repeat what I have said before: the significant increase in the protected areas of the Great Barrier Reef Marine Park would undoubtedly be the most significant environmental achievement of this government. I hope he acknowledges, when he has the opportunity, that the process was strongly supported by me, as a Queensland senator, over many years. As he would know, the process did take many years—and it was good that it did, because it meant that the process was more fulsome and the community consultation was more complete. Not everybody is happy, because you can never have everybody happy, but it did ensure that as many people as possible had the opportunity to have a say and to become more aware of the facts—as opposed to what were some pretty dodgy scare campaigns being put around the place. There is no doubt that if you look purely at the economics of the situation, the better protection you can provide for the Barrier Reef Marine Park, the more employment and other flow-on economic opportunities and prosperity you get for my own state of Queensland.

The Productivity Commission did a report throughout this process which showed that the number of jobs generated out of the marine park—not just the reef and the coral itself but the wider marine park—was vastly in excess of the number of jobs coming from commercial fishing. I think it was about three per cent to 90 per cent. Not increasing the proportion the reef being protected because of the desires of the commercial fishing people would mean that you would actually cut your nose off—and probably a hell of a lot more—to spite what would be left of your face, because damage to the marine park damages the tourism opportunities and jobs that come from that.

Of course, it is about more than just economics. There are enormous environmental biodiversity opportunities and aspects of the marine park that are simply unique. It must be said that you could make the whole place—100 per cent of it—a protected area, not to be touched at all, and it would all still be significantly at risk from factors like climate change. Given that I gave the government a tick before on the rezoning of the marine park, I would have to give them a very big cross for their grotesque failure in the area of climate change, which actually puts all of the good work of the rezoning at risk.

Amongst other things, this annual report points to the science that was involved in the rezoning, and that is important because there is an ongoing campaign being run by some—not all—in the commercial fishing industry that this was driven by a bunch of greenies who want to lock everything up and that it was not science based. It was very much science based. As always, science is a developing area and is never perfect, but quite clearly it was based on science. Specifically, I draw the Senate’s attention to page 23 of the report, looking at whether each particular bioregion within the entire marine park, which is an enormous area, was given adequate protection by having no-take zones so that a sufficient amount of that bioregion would be, broadly speaking, undisturbed or suffer minimal disturbance to ensure that an adequate representation of that particular ecosystem had a reasonable chance of survival.

It is not just the spectacular areas with the coral and the marvellous fish; it is some of the not so exciting areas like mudflats, seagrass beds and other things that are still important for the ecosystem of the whole marine park. The science identified 70 individual bioregions and recommended that, in order to adequately protect the whole biodiversity and ecosystem function a minimum of 20 per cent of each bioregion should be
designated as protected. That was the starting point; that is why it was called a representative areas program. That science was the basis of what happened.

As I have mentioned a number of times, I still have concerns about areas that I would have liked to be different, and I think it can continue to be improved. There are still big challenges to make sure that these areas are properly managed and that we build on this advance, and that must be acknowledged. We need to make sure that talk about weakening the management powers of the authority is resisted at every opportunity as well. There is still a long way to go and we do not want to waste all those years of effort to push things up that extra step.

Question agreed to.

Wet Tropics Management Authority

Debate resumed from 8 March, on motion by Senator Bartlett:

Senator BARTLETT (Queensland) (6.11 p.m.)—As sharp observers would be aware, this is again a Queensland focused report. The Wet Tropics Management Authority covers that area that famously adjoins the Great Barrier Reef Marine Park where the rainforest meets the reef. Of course, the wet tropics is a lot more than just the rainforest. It is a lot of other incredibly diverse and environmentally crucial ecosystems. It is an area that is critical to the economic prospects and prosperity of particularly the far north region of my own state of Queensland. My assessment on this one is not as rosy as my recent assessment of the Barrier Reef. I am sure that the Minister for the Environment and Heritage is listening absolutely intently and not being distracted at all, and he will take on board my comments in this area. As was said in this chamber a couple of days ago, the wet tropics area is a lot more than just the Daintree and sometimes it suffers from being seen just as the Daintree and that area north of the Daintree River. Having said that, the Daintree area is extraordinarily critical and extraordinarily beautiful. I have visited there many times. To anybody listening who has not been there, I would very much recommend it.

Whilst I am a strong supporter of protecting areas like the Tasmanian forests, occasionally I get tired of hearing about Tasmanian forests when we have areas of far more environmental significance in my own state, and the Daintree would be one of them, that do not get the acknowledgment and focus that they should. That area of the Daintree has been at risk for many years. It has biodiversity far in excess of most other areas of Australia, including the Tasmanian forests. A lot of people assume the Daintree has all been saved, but it has not. The reasons for that have been outlined before.

There has been some movement, as has been acknowledged previously, in providing the funds necessary to ensure that those areas of rainforest still freehold and at risk of being cleared can be bought back with adequate compensation provided to the individual owners of those blocks. There are proposals in place through the Wet Tropics Management Authority and based on funding from the shire council, the state government and, I believe, the federal government, which involve a map of some priority areas containing a certain number of properties and looking to purchase those properties.

I point out that the draft planning scheme for the biodiversity of the area affects over 400 properties. I believe they need to ensure that they are all protected. There has always been a problem with just trying to grab bits and pieces, putting together enough of a patchwork quilt to think that you have enough to get away with it. Part of it is ensuring that the clearing does not happen—
that the trees are not cleared and the flow-on problems do not happen. Part of it is also ensuring that the residential population north of the river does not increase much more, because there are already massive pressures with tourism numbers. Adding to the residential population will simply compound that enormously. I appreciate that that is a source of frustration to some people, but it is nonetheless a simple, obvious, blatant matter that cannot be ignored.

I have concerns about whether the money that will be spent will be spent as effectively as possible and will guarantee the long-term protection of those areas in as complete a way as is necessary. That is something that still needs to happen. Failure to purchase or permanently negate development on the entire range of properties would defy all the studies to date and make a mockery of the precautionary principle that is highly applicable to the complex ecology of the Daintree. We really need assurance from the federal government, financial or otherwise, that that whole planning scheme will be implemented and achieved. I hope the Wet Tropics Management Authority is able to play a positive role in making sure that happens and that it will be a key part of the review of their ongoing management plan that commences towards the end of the year that that occurs.

Question agreed to.

Consideration

The following orders of the day relating to government documents were considered:


National Oceans Office—Report for 2003-04. Motion of Senator Buckland to take note of document called on. On the motion of Senator Bartlett debate was adjourned till Thursday at general business.

Sydney Harbour Federation Trust—Report for 2003-04. Motion of Senator Buckland to take note of document called on. On the motion of Senator Bartlett debate was adjourned till Thursday at general business.


Parliamentarians’ travel paid by the Department of Finance and Administration—January to June 2004, dated December 2004. Motion of Senator Bartlett to take note of document agreed to.


Aboriginal and Torres Strait Islander Commission—Report for 2003-04. Motion of Senator Bartlett to take note of document agreed to.


Torres Strait Regional Authority—Report for 2003-04. Motion of Senator Bartlett to take note of document called on. Debate adjourned till Thursday at general business, Senator Bartlett in continuation.


Regional Forest Agreements between the Commonwealth of Australia and—

   New South Wales—
         Reports on implementation—
            2000-01.
            2001-02.
      North East Regional Forest Agreement—Reports on implementation—
         2000-01.
         2001-02.
      Southern Regional Forest Agreement—Report on implementation for
         24 April 2001 to 30 June 2002.
   Tasmania—Tasmanian Regional Forest Agreement, 8 November 1997.
   Victoria—
      Central Highlands Regional Forest Agreement, 27 March 1998.
      East Gippsland Regional Forest Agreement, 3 February 1997.
      North East Regional Forest Agreement, 9 August 1999.
   Western Australia—South West Forest Regional Forest Agreement, 4 May
      1999.

Motion of Senator Brown to take note of documents agreed to.


Australian Radiation Protection and Nuclear Safety Agency—Quarterly report for the period 1 April to 30 June 2004. Motion of Senator Bartlett to take note of document called on. Debate adjourned till Thursday at general business, Senator Bartlett in continuation.

Australian Radiation Protection and Nuclear Safety Agency—Quarterly report for the period 1 July to 30 September 2004. Motion of Senator Bartlett to take note of document called on. Debate adjourned till Thursday at general business, Senator Bartlett in continuation.

COMMITTEES

   Privileges Committee
   Report

Debate resumed from 8 March, on motion by Senator Faulkner:
   That the Senate endorse the finding at paragraph 1.25 of the 120th report of the Committee of Privileges.

Question agreed to.

   Legal and Constitutional References Committee
   Report

Debate resumed from 8 March, on motion by Senator Bolkus:
   That the Senate take note of the report.

Senator BARTLETT (Queensland) (6.17 p.m.)—I speak on the committee report. It is a report I recommend to anybody interested in the role of Australians that leave our country, whether for a short or long period of
time, and how they can continue to play an effective role in our economy, in our community and in our sense of what being Australian is and as ambassadors for Australia around the world. I spoke to some extent on this report the other day, and I will speak briefly to emphasise a few points following on from that.

Firstly, I emphasise that the report is fairly close to being unanimous. Government senators backed most of the recommendations, if not fully then certainly in principle. I urge the government and the ministers affected by this to give strong consideration to it. There are a few parts in particular I want to emphasise, especially given the debates that have been happening lately around skilled labour shortages. There has been talk about bringing in more migrants to Australia to fill skills shortages. That is a debate that has a lot of interesting aspects to it. We should not forget the role that expats can play in coming back to Australia and we should not forget the skills that are already here that we are not making use of from temporary residents, migrants and refugees, particularly refugees on temporary visas who are being prevented from upgrading their skills or having their skills recognised.

There is also the group of Australians who have been overseas for some time, who have developed skills over there and who have trouble getting those skills recognised back here. One area that I think certainly needs further exploration is that group of people: Australians who come back here looking to continue their life and jobs, find that they cannot get work for various reasons and end up going away again. That is a circumstance that I think we need to avoid where reasonably possible.

Another area that needs examination is whether it is possible to further expand the opportunities of Australians resident overseas to vote. There are limits on how far you can take that principle. Some countries take it so that if you are a citizen of that country you can vote anywhere in the world even if you have not lived there for decades. We saw the election—welcome in many respects—that just occurred in Iraq and the fact of many Australian citizens who migrated here from Iraq or were refugees from Iraq partaking in that election, even though some of them had not been in that country for a long time. That was something we celebrated. Obviously those are very different circumstances, but it is an example of people who have been away from a country for a very long time and can still be recognised as legitimately having links to that country and playing a role in determining the future direction of that country. I do not say that everybody should be able to vote for the rest of their lives even if they have not lived here for 50 years, but I do think we need to look at the scope for expanding the right to vote for expats beyond what the current arrangement is. It is not a terribly satisfactory arrangement even purely from the point of view of efficiency.

The second point I want to emphasise is the very desperate need to remove the outdated component in the Constitution that prohibits dual citizens from nominating for federal parliament. It is absurd that we do not even know how many Australians are dual citizens, but estimates are 20 to 25 per cent. With changes to the Citizenship Act in recent years that lessen the requirement for people to let go of their citizenship if they become a citizen of another nation, we will have a dramatically increased number of Australians who are dual citizens, which I think is a good thing. Indeed, as I will say in a moment, we need to further reform the Citizenship Act, as this report suggests.

All of those people, however many millions there are—the 20 or 25 per cent of Aus-
ustralians who are dual citizens—are people who do not have the opportunity to nominate for federal parliament. Again, I believe that is counterproductive for the entire community. There are many people who have a contribution to make and they cannot even be part of an election campaign. Speaking from the point of view of a smaller party like the Democrats, you have people who nominate purely to be a candidate in an election and obviously have no expectation of winning in the House of Representatives. They are not even able to participate in that way, even though there is no real prospect of them being elected. That is a whole group of the community who are prevented from even participating in that very fundamental way of being a candidate for election.

The Constitution could be amended so that if you take up your seat in parliament you are deemed to have rescinded your other citizenship. I do not see any problem with people even being dual citizens and being in parliament. Almost certainly we have had people in that situation in the past and it has not been acted on. Perhaps you could have the parliament rule that, before people become a minister or something like that, they could not be a dual citizen. I certainly believe it is counterproductive for us to have such a huge part of the community prohibited from even participating at all as candidates in federal elections. I believe it is well overdue for that part of the Constitution to be removed. I urge the Prime Minister to recognise that it is a policy that has been supported by pretty much every party here. Nobody has acted on it because we have a bit of an aversion to referendums these days. I think that if it were widely supported it would be one that would get through.

The final point I will make is in relation to the Citizenship Act. This report makes recommendations that the act be amended to enable the children of Australians who have previously rescinded their Australian citizenship to apply for Australian citizenship by virtue of descent. Again, I think that would be a benefit to our nation. The government announced, in the middle of last year, that they would be moving to amend the Citizenship Act to enable former Australians who had surrendered their citizenship in the past to be able to reapply for Australian citizenship. Because of the operation of the Citizenship Act they were required to surrender it when they took up the citizenship of another nation. That is a move I strongly support. I put on the record here that I and the Democrats would support that amendment to the Citizenship Act being made as promptly as possible.

I call on the relevant minister, Minister McGauran, to introduce that legislation. We do not need to wait until the second half of the year. That is one that I would support promptly. It was announced nearly a year ago, and I think it is about time that it saw the light of day. Previous announcements to amend the Citizenship Act regarding this area that did eventually get passed took a long time from announcement—I think about five years—to when they were passed. I do not want to see that again. I urge the government to act quickly on their announcement from July last year, and I think they should go further. Again, if they did go further and allow children of those who are affected in that way to also be able to apply for Australian citizenship, I would support it. To give one example, a number of Maltese people were affected by that situation. There are areas where we can act quickly. I support the government acting quickly in this area as well as on the other recommendations in this report.

Question agreed to.
The following orders of the day relating to reports of the Auditor-General were considered:

Auditor-General—Audit report no. 16 of 2004-05—Performance audit—Container examination facilities: Australian Customs Service. Motion of Senator Webber to take note of document agreed to.

Auditor-General—Audit report no. 17 of 2004-05—Performance audit—The administration of the National Action Plan for Salinity and Water Quality: Department of Agriculture, Fisheries and Forestry; Department of the Environment and Heritage. Motion of Senator Bartlett to take note of document. Debate adjourned till the next day of sitting, Senator Bartlett in continuation.

Auditor-General—Audit report no. 30 of 2004-05—Performance audit—Regulation of Commonwealth radiation and nuclear activities: Australian Radiation Protection and Nuclear Safety Agency. Motion to take note of document moved by Senator Bartlett. Debate adjourned till the next day of sitting, Senator Bartlett in continuation.

Orders of the day nos 3 to 5 and 7 to 13 relating to reports of the Auditor-General were called on but no motion was moved.

**ADJOURNMENT**

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Order! There being no further consideration of committee reports, government responses and Auditor-General’s reports, I propose the question:

That the Senate do now adjourn.

**Information Technology**

**Multiple Sclerosis**

Senator LUNDY (Australian Capital Territory) (6.27 p.m.)—This is a useful opportunity for me to continue in the adjournment debate some remarks I was making with respect to the general business motion earlier today. I would like to continue to speak on that subject and to particularly focus on the issue of trade deficits. This government has been clocking up record trade deficits. There is no industry sector that more illustrates the fundamental neglect of industry policy and the opportunities that Australia has to manufacture and produce equipment than in the ICT or information and communication technology area.

The trade deficit in ICT alone, as Senator Cook so sharply pointed out, is almost the single biggest problem when it comes to how the trade deficit is created. In ICT alone we import some $20 billion worth of services and equipment. We export around $5 billion worth, mostly in services, leaving a trade deficit in that sector of some $15 billion. It is interesting to note that, at the start of the coalition’s period of government in 1996, it was Professor Ashley Goldsworthy who predicted the massive growth in the ICT trade deficit if neglect occurred in the area of industry development and IT policy. That prediction was made in 1996 as the movement among industry, scientists, researchers and academics grew around the government’s neglect and withdrawal of funding for those critical areas of research and development, commercialisation and industry development policies.

In 1996 the government were at great pains to say how ludicrous and irresponsible these projections were. Indeed, they made a great deal of noise about the fact that it could not possibly ever happen that way. Well, surprise, surprise—the trajectory for the trade deficit on ICT has followed almost precisely the predictions of Professor Goldsworthy in 1996. The Howard government have facilitated that trade deficit growth through their appalling handling of IT policy. As such a powerful symbol of the neglect of industry policy, the ICT trade deficit has occurred because this government has allowed oppor-
tunities to disappear. There were initiatives. We used to manufacture a reasonable proportion of ICT equipment, and we did this at a time when it was so clear that the demand for ICT equipment was going to grow dramatically. Remember that in 1996, leading into the technological revolution where computers were becoming ubiquitous in both homes and workplaces, it was predicted that if we did not maintain capability in the area of ICT equipment then that trade deficit would bloom and grow at a phenomenal rate.

But what did the Howard government do? Not only did they not take a stance on this or fight for the maintenance and support of an industry that was competitive and had an established basis in Australia; they also helped it walk out the door. One key element—I have spoken about this issue on many occasions in this place—was of course the poor procurement policies perpetrated by the Howard government. The policies in relation to IT—government is the single largest user of ICT equipment and services in Australia—meant that government agencies and departments were not encouraged but were forced to turn to the very large overseas suppliers at the expense of the multitude of small businesses in this country that made up a complex web of supplies of both equipment and services.

In an attempt to somehow fabricate a savings measure—I have to say ‘fabricate’ because the savings measure never materialised; this is the Howard government’s billion dollar ICT black hole—they managed to effectively push out the door one of the most crucial manufacturing sectors in Australia at the time, to the point where the trade deficit is now around $15 billion and our capability in ICT equipment is vastly diminished. If you add to that the reduction in research and development funding—particularly through the 1996-97 and 1998-99 financial years—and a very weak effort in paying lip service to that neglect through Backing Australia’s Ability and other policies in the year 2000, you see a government that have tried to cover the tracks of their neglect. But one of the strongest points to be made in this discussion about the economy is that they have not been able to cover their tracks at all because the gaps are starting to show.

It is in that sort of area of high-tech manufacturing that Australia is now so fundamentally weakened. We need to look no further than our manufacturing export figures to see them on the decline, particularly in the high-tech areas. One would be quite right to ask: ‘Why on earth in the late nineties, early 21st century, are they the only government, the only Western economy, not investing in research, development and commercialisation of high-tech products and services? Why are this government now relying on a hodgepodge of industry policies to try and paper over the gaps that they have left in this very important foundation of our economic future?’ The fact is that the Howard government do not care. The Howard government are happy to allow Australia to rely heavily on the resources sector at the expense of our manufacturing sector and our high-tech area in order to try and prop up the economy.

To sustain that growth we do need to be good at these things. We need to exploit one of Australia’s greatest strengths—our educated work force. We know from travelling around the world that other countries look to the Australian education system and they pay their respects to a system that has been nurtured by government after government—that is, until the Howard government. Under the Howard government we now see another fundamental crack in the foundation of a solid economy that can sustain ongoing growth, and that is in the skills of our people—the sorts of skills that we need to underpin, whether it is in the high-tech manufacturing area, our building trades or indeed
We now see a great shortage across the skills area. I take to task the earlier comments of Senator Fifield and other coalition senators who pretend that this is not a problem. They say it is a manifestation of a strong economy. How come the former Labor government had the wisdom to look forward and open up the Australian economy, hand-in-hand with strategies that would prepare the Australian economy for stronger global engagement? We invested in skills, education and training. We looked at the VET sector and said, ‘We have to do more to make sure that our citizens are able to take advantage of the sorts of opportunities that are going to come with greater exposure to the global economy.’

No such vision guided the Howard government as they exploited the ongoing economic growth that we have experienced over the last near decade or so. No such responsible action was taken by this government. Those foundations, and our capability to export high-tech equipment and services and to make sure that we had the educated workforce necessary to take full advantage of those opportunities were completely neglected. Now we find ourselves playing catch-up all over the place and fundamentally weakened in the long term. It is very hard to predict now the nature of the skills shortage and how severely it will manifest itself. But it will ensure that Australia never achieves its full potential, which it would have if we had made the most of a period of reasonably steady economic growth. That potential and the possibilities because of it will never be known.

I will leave my comments there because I would like to spend the last few seconds of my adjournment speech time in mentioning an event that occurred in Parliament House earlier this week. That was the launch of a very important economic study into the disease multiple sclerosis and how it affects the lives of people. Senator Gary Humphries and I are both co-patrons of MS here in the ACT and we were very pleased to welcome to Parliament House, and hear the stories of, MS sufferers. I would like to conclude by urging my Senate colleagues to take the opportunity to familiarise themselves with the study of the economic impact of multiple sclerosis, which has been put together by Dr Rex Simmons of Canberra Hospital. He is the project manager of the MS life study, a national project designed to improve the lives of the more than 15,000 Australians with MS. (Time expired)

Festivale 2005
Flavours of Tasmania

Senator WATSON (Tasmania) (6.37 p.m.)—Tonight I wish to take a few moments of the Senate’s time to talk about a unique event in Launceston—that is, Launceston’s Festivale, arguably Tasmania’s premier annual wine and food event. Tasmania, as you know, Mr Acting Deputy President Watson, has an excellent reputation for its high-quality local produce, and Festivale is the perfect vehicle to show it off. But Festivale is not only about food and wine. It is a colourful, fun-filled three-day celebration providing great family entertainment and featuring music, dancing, street theatre and other performances by local and interstate artists. Its mission statement is ‘to promote the unique lifestyle of our state through excellence in fine food, temperate climate wines, arts, entertainment and fun’, and it seems to be well and truly succeeding.

Festivale originated 17 years ago as a one-day multicultural event in the city’s streets, with its main focus on food and entertainment from the diverse cultures within our
community. The event has now moved to a more spacious location—namely, Launceston’s historic and beautiful City Park—and has evolved into a three-day affair. With the change in location, it has also changed its emphasis to focus on Tasmania’s top-quality range of food and wine. Beautiful weather, an improved layout and a wider variety of exhibits proved to be a winning combination, making this year’s Festivale a huge success, with an estimated 45,000 people coming through the gates. In Tasmanian terms, this is a sign of enormous community support.

The aim of the organisers, however, has been to make the experience more enjoyable for patrons rather than just make the event bigger. In recent years, the organisers have raised the quality of the food to a very high level. It is a requirement now that the food must have a high Tasmanian content, be innovative, be in small-sized portions and be reasonably priced to encourage patrons to sample multiple dishes. This new format has indeed been very well accepted.

Festivale featured a new exhibit this year called Tasmania on a Plate, dedicated solely to Tasmanian produce and concentrating on new and exciting foods. The exhibit was a hit, with some of Tasmania’s best chefs holding cooking demonstrations and with local wine experts conducting wine and food matching workshops. The organisers’ aim was to feature some of Tasmania’s hottest chefs showcasing their skills using Tasmania’s superb produce. Rather than using interstate chefs, they wanted to highlight our amazing local talent.

Daniel Alps, one of Tasmania’s most innovative chefs, from the renowned Strathlynn restaurant at Rosevears Estate in the Tamar Valley, was a star attraction. Daniel is known for transforming the highest quality produce from his local region into an exciting melting pot of flavours, with superb execution. From the outstanding Launceston Stillwater restaurant, Kim Seagram, a highly knowledgeable authority on Tasmanian wines, offered wine tips, characteristics and tastings of a selection of Tasmania’s excellent wines.

Highly respected chef and food identity John T Bailey of the Athenaeum Club in Hobart demonstrated the use of lamb from Flinders Island and organically reared beef from Mount Roland—examples of the types of fine produce showcased at the event. Mr Bailey is an expert on Tasmanian produce and regularly demonstrates nationally and internationally on the subject.

Massimo Mele, head chef of Launceston’s Mud Bar and Restaurant, drew inspiration from his Italian ancestry and our exceptional local ingredients to cook up great-tasting but simple dishes, bringing out the true natural flavours. Massimo is only 24 years of age but is quickly gaining a reputation as one of our most exciting up-and-coming chefs. The much talked about Hobart restaurant Lickerish was represented by Kathryn Wakefield, who combined her unique style with seasonal ingredients to produce some taste sensations.

In addition to the Tasmania on a Plate marquee, there were some 80 food and wine exhibitors offering tastings all weekend, far too many to mention individually. They were naturally of the highest quality, as strict guidelines had to be adhered to in order to participate in the event.

Tasmania’s wine industry is booming, and many of the vineyards exhibited at Festivale again provided reasonably priced samples to allow patrons the opportunity to try out several different varieties. A number of Tasmania’s wonderful cheeses were also on offer to perfectly complement the wine tastings. Launceston’s famous Boag’s brewery was
the supplier of beer, and Cascade in Hobart was the major supplier of soft drinks; so it is not only our food and wine that we are famous for.

The event was an absolute credit to the organisers—a committee of tireless and passionate volunteers. The chairman estimates that a minimum of $900,000 was exchanged over the three days. The increasing popularity of the event is attracting not only artists but visitors from intrastate, interstate and overseas. It also acts as a stimulus for the Tasmanian economy, particularly this year, as Festivale set off a fortnight of major events right across Launceston. Visitors are encouraged to stay for other events, thereby injecting more tourist dollars into the city, not only in the hospitality and accommodation sectors but also in the retail sector. It is apparently near impossible to get a hotel bed in Launceston over the Festivale weekend each year. So, honourable Senators, come, sample and enjoy this unique event. It is estimated that the combined events brought in millions of dollars, benefiting the whole of the Launceston community. The events made good use of the perfect weather which Tasmania enjoys at this time of the year.

The topic of Festivale also provides me with the perfect opportunity to remind honourable senators and others listening of another event that has received some publicity in recent times and which has got a good result—that is, the 104-year-old woman from China, Mrs Hu, who was granted a visa this week by Minister Vanstone. I congratulate the minister on that decision.

I want to use that case to highlight the inherent absurdities that have now developed in the administration and operation of our Migration Act, the enormous amount of incredibly inefficient administrative activity that happens unnecessarily, the absurd amount of power that rests in the hands of one or, to be correct, two ministers, and the enormous amount of unnecessary effort that community advocates, community legal centres, migration agents, review tribunals, families and applicants have to make because of the inefficiencies that have developed in the Migration Act. A few things need to be cleared up about this particular case. I will go into it in a little detail but, for privacy purposes, will only use the details that are on the public record. Because Mrs Hu now has a permanent visa, there is no risk of retaliatory action being taken as there might be in raising the case of somebody who was still in need of ministerial intervention, so it is a good case to use.

Mrs Hu was here on a visitor visa, which ran out in 1996. It was a valid visa. She was here visiting her family, who are residents of Australia. When the visa ran out, I am informed that the family applied for a further visa—an aged parent visa—to enable Mrs Hu to stay here because she was not able to get transportation back to China. They were not successful with that or they were told it would not be successful because of the age of the applicant and the fact that she would not meet the criteria at the time. So technically Mrs Hu was here illegally through to 2001. I have to stress that she did not disappear, go underground or go into hiding. She was here openly with her family throughout that time and was certainly not receiving any

Immigration: Visas

Senator BARTLETT (Queensland) (6.45 p.m.)—I rise to speak tonight on the operation of the Migration Act and one case in particular which has received some publicity
entitlements. She was not a burden on the taxpayer. Nonetheless, I am informed that she was without an authorised visa.

In 2001 she was required to meet with the Department of Immigration and Multicultural and Indigenous Affairs. She was then given a bridging visa with no expiry date. One could say that that is a creative way of dealing with the situation. Bridging visas, for those who are not aware, are meant to be short term, as the name implies, until a person’s status is regularised by another visa. So normally people in the community are on a bridging visa whilst their application for a more permanent visa is determined. In this circumstance, she was just left on an indefinite bridging visa, which I would argue is a completely inappropriate use of that particular visa. It is basically a way of circumventing the Migration Act, because there was no category into which she would fit.

However, this served the purpose of regularising her status—for the purposes of the migration department, anyway. The trouble is that on a bridging visa you are not entitled to Medicare. That became an issue when Mrs Hu broke her arm in 2003 and was treated at a hospital, and then again the next year when she suffered another injury which required that she be taken to hospital. The hospital then—not unreasonably, perhaps—wanted payment for those visits to hospital. The family had difficulty with the bills and were not able to get the debts waived at that stage. Again, they sought to regularise Mrs Hu’s status, who, at this stage, had been on a so-called bridging visa for over three years.

The process then had to go through further stages to get to what finally happened, with the minister using her ministerial discretion. The family were required to apply for a visa that almost certainly Mrs Hu was not going to be entitled to. They were required to appeal the expected knocking back of that visa application to the migration tribunal and then had to hope that the minister would exercise her discretion. There is no legal way to require the minister to do so. The minister is not required to even consider the matter. In this case the minister said publicly that she would. But if she makes a negative decision, there is no legal avenue to pursue the matter. There is no way that that power can be compelled to be used or appealed against in the way that it is used.

The government’s and the minister’s policy is that they will not exercise that discretion until somebody goes through the process of applying, being rejected, going to the tribunal and being rejected again. That is just extraordinarily inefficient. It is the same thing that applies time and time again to a whole range of people in the community who apply for migration visas and protection visas and also in certain circumstances to people who have humanitarian grounds for staying but where there is no visa that fits. We actually have tight criteria for refugee visas in Australia, which may surprise some people. You can have genuine humanitarian grounds, such as fear of persecution, that do not fit into the refugee convention. You can be told that quite clearly but still have to go through the process of applying, being rejected, going to the tribunal and being rejected, and then hoping that you get lucky with the minister using her discretion.

Apart from the massive cost of wasting the tribunal members’ time and wasting department officials’ time to appeal to the Migration Review Tribunal as Mrs Hu had to do, and apart from the fee of $1,400—a fee which I expect would have been returned or could have been waived as there is that provision—you have the stress of never knowing for sure whether or not you will succeed. You could have the minister making all the encouraging statements you like, as happened in Mrs Hu’s case, but never be sure.
The minister made what I believe was a very misleading statement, saying that at no stage did Mrs Hu face deportation. It is true that at no stage had the immigration department decided she would be deported and sent a letter saying, ‘Pack your bags,’ but the fact is that, throughout all of that time, there was a real risk that she could at any stage have her bridging visa cancelled and be told to go or, following her appeal to the minister, be told: ‘No, I’m not going to exercise my discretion. You’ve gotta go.’ I think it is very disingenuous, to put it politely, to say that at no stage did she face deportation. Of course she faced that risk. It was reported in the paper that, when she was rejected at the tribunal, she was so stressed that she was not able to eat. This is the reality. The fear of that sort of situation or, if you are a refugee, the fear of deportation back to the place you have fled is quite enormous. To have that hanging over your head for what could potentially be years is stressful. I do not think that people should underestimate how debilitating that can be to mental health. To leave people in that state of total uncertainty and just have a minister giving a nod and a wink and saying, ‘I’ll be humanitarian, you can certainly be assured of that,’ which is basically what we got, is a ridiculous system.

I support having ministerial discretion there but it must be a last resort. Senator Santoro would know that as he was part of the Senate Select Committee on Ministerial Discretion in Migration Matters. I encourage people to look at the data in the report that came out of that inquiry. That inquiry was set up in part to try to get at the former immigration minister, Mr Ruddock, under the so-called cash for visas allegations. I certainly made it clear that I saw no evidence of that at the time. What I did see is not a system that is corrupt in that sense of the word but a system that has got out of control in the way in which all of the other avenues have been blocked off. The only avenue left for thousands of people is this avenue of ministerial discretion, and the only person who can exercise that is the minister. It cannot be delegated.

The figures on page 29 of the report show us that we have over 6,000 requests a year. None of them can be approved except by the minister, individually. To think that the minister has nothing else to do than go through and look at at least 483 requests, because that is how many he approved, is ridiculous—let alone a minister that is also supposed to be the minister for indigenous affairs. It is a completely inefficient, unsatisfactory system. It may have had a good result finally, after a lot of stress for Mrs Hu—and I again thank the minister for that—but it is a system that has clearly been distorted from its original intent and really needs to be significantly reviewed and reassessed. I urge the government again to go back and look at the recommendations in that report with an objective eye.

Queensland: Services

Senator SANTORO (Queensland) (6.55 p.m.)—In a speech in this chamber on Tuesday, I spoke about the challenge facing sea-change communities and their local governments around the settled parts of Australia’s eastern, southern and western coasts. A large part of that problem stems from the fact that state governments, nowadays awash in politically risk-free funds courtesy of the GST which the Commonwealth raises and distributes to the states and territories, are simply not doing enough to build infrastructure and develop services to meet demand in those high-growth areas. The problem extends far beyond the coastal strip where the sea-change problem exists. In Queensland’s case it extends throughout the country’s most decentralised state and across the board in terms of government services.
Queensland, more than any other state, has profited mightily from the GST. Its windfall gain this financial year is in excess of $760 million. That is $760 million more than the guaranteed minimum amount, which itself is a grants commission calculation of what the state would be entitled to in 2004-05 if there were no GST. Yet there are questions about what the state government actually does with all the money it collects through its own sources and with the Commonwealth funds given to it. On 9 February, in the first week the Senate sat this year, I spoke in the matters of public interest discussion on the topic of keeping the states honest on service delivery and accountable on fiscal responsibility. Since then, the row over the GST has broken out, with the Premier of Queensland, among others, being heard making very loud noises about how the Commonwealth continues to dud his state and others. Lately he has been joined by his treasurer, Terry Mackenroth, in attempting to prosecute this line of argument even further beyond the bounds of credibility.

But there are some facts they do not want people to know—like the fact that every single Queensland tax and duty is raking in more than budgeted. They do not want Queenslanders to remember that part of the GST deal was that a raft of state taxes and duties would disappear. They certainly do not want people to remember that they promised to bring ambulance response times down with the imposition of the ambulance tax, paid on every electricity account, or that they were going to slash public hospital waiting lists. With the tragic example of ENERGEX, the south-east Queensland power utility, so very obvious to people—obvious to so many as the lights go out—they do not want people to remember that the Beattie Labor government have been ripping reinvestment funds out of ENERGEX every year, despite being told what would happen if they did.

State Liberal leader, Bob Quinn, has asked the Premier whether the government’s financial raids on Queensland Rail—it took $115 million, or 95 per cent of after-tax profit, from QR in 2003-04 as a dividend—might have contributed to last year’s tilt train crash. We know that overseas trained doctors desperately needed in the state’s hospitals are being held up waiting for mandatory English language tests, some of them for three months. We know that the state government’s Business Migration Office is widely seen as incompetent by potential business migrants, who take their business elsewhere. These are the kinds of administrative mess-ups that really should not happen in a state where the government claims to be smart. It seems the government is half smart instead.

Queensland Health employed a convicted sex offender from Victoria in a senior mental health post and gave him the job of fronting its sad campaign to persuade Queenslanders that bed closures in the system were not cost driven. The state government recently pulled the pin on its signature public-private partnership project—its only public-private partnership to date, despite all the bells and whistles and the heroic claims—to redevelop the Southbank TAFE in Brisbane at a cost of $200 million. No wonder its business credentials are under a cloud. Last November state health minister, Gordon Nuttall, told the Queensland parliament he was under no obligation to answer questions about cardiac waiting list deaths either in parliament or in public. How accountable is that?

The Beattie Labor government has been in office since 1998. In June this year it will celebrate—if that is the word—its seventh birthday. On that unhappy day, it will doubtless tell us that it is a can-do government. Yet all the evidence shows it to be a can’t-do
government. It cannot even pull its weight in rescuing central Queensland citrus growers suffering economically because of the citrus canker outbreak. The Commonwealth has had to come to its rescue because all the Beattie government would do was put up a $1.5 million rescue package that was actually a loan package. Fortunately for growers, the Commonwealth takes a more responsible view of what its duties as a government actually are, and the Minister for Agriculture, Fisheries and Forestry in the Howard-Costello government is a Queenslander who also understands—as do most Queenslanders—that practical problems demand practical solutions.

We see continued foul-ups in the area of child safety—something on which Premier Beattie finally decided to hang his hat after two successive ministers in his government messed up the job. As Liberal spokeswoman on child safety, Jann Stuckey, said recently, on February 24, they are still trying to hide. The Minister for Child Safety, Mike Reynolds, refused on that day to answer a question in parliament on the case of a child sex offender who was allowed to continue as a state-approved foster carer after the Commissioner for Children and Young People cancelled his blue card in 2002.

The list of failures just goes on and on. The state government’s mishandling of a proposal for a large-scale fish farm in Moreton Bay—which is a marine park, incidentally—is likely to end up costing Queenslanders at least $1 million in compensation to the proponents who were encouraged to come in and set up business by the state Minister for Primary Industries and Fisheries, who then got overruled by the Queensland Premier. They cannot even get their own story straight. The government is feared to be ignoring serious pollution threats to southeast Queensland’s water supply, with the latest risk being approval for a 1.9 million-

bird chicken farm in the Wivenhoe Dam catchment.

At the Gold Coast Hospital’s emergency department, patients with serious infections still have to wait up to eight hours for treatment, five months after the Beattie government announced a fast-tracking program to cut waiting times. At the same hospital the waiting list has blown out again. The December quarter figures made public just last week but supposed to have been released on 31 January show that 351 patients, including 13 patients surgically classified as urgent, did not receive surgery on time. State Liberal health spokesman Bruce Flegg, himself a doctor, this week tabled further evidence in state parliament that the Beattie government has been less than honest over hospital waiting lists. He said:

In Queensland there are two waiting lists—the official waiting list and the unofficial waiting list to get on the official waiting list ...

He added this, something that has clear Commonwealth implications:

The Beattie Government often boasts that it has shortest waiting lists in Australia, but what it fails to tell the Queenslanders is that the waiting list data is not independently audited and the information provided to the Productivity Commission is extensively manipulated by Queensland Health.

So there we are: Queensland is awash with GST profits and funds but service delivery is still headed south. It is not because they cannot get enough money; it is that they spend it on the wrong things. It is not that they do not understand what they signed up for when the GST came along and they all lined up to get their buckets of money; it is that they are greedy and hostage to the old idea that the only good bureaucracy is a big and expensive one.

The federal Treasurer and others—and among the others I modestly include myself—have called for the Beattie government...
to honour its pledge in the GST agreement to cut state taxes and duties. Along with the other state governments, Queensland promised to abolish a number of state taxes and substantially cut stamp duty. But Mr Beattie has again reneged on that deal. Queensland may be getting close to $6 billion from the GST this year but the Premier and his spendthrift government still cannot manage to keep their word to cut stamp duty, other than to offer concessions to first home buyers, something that was forced on Mr Beattie in the 2004 state election campaign.

Yet just this month the chairman of the Queensland Treasury Corporation publicly undermined the Premier’s cry-poor attack on the Commonwealth when he stated the blindingly obvious truth that upward revisions to estimates of GST payments to Queensland are behind the state’s higher projected budget surplus. That is the bottom line. The Beattie government is consistently failing to perform in service delivery, in financial management, in administration, in telling the truth and in delivering on pre-GST promises. The deal was that, in return for the GST growth tax, the states would abolish or reduce state taxes, including payroll tax, land tax and bank taxes. The deal was that stamp duty would be reduced. Mr Beattie must now deliver these cuts and deliver services that the people of Queensland can rely on.

Senate adjourned at 7.05 p.m.

DOCUMENTS
Tabling

The following documents were tabled by the Clerk:

Made following the commencement of the Legislative Instruments Act 2003 on 1 January 2005 [Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]:

- Appropriation Act (No. 1) 2004-2005—Advance to the Finance Minister—Determination No. 5 of 2004-2005 [F2005L00628]*.
- Aviation Transport Security Act—Notice under section 107—Notice about how incident reports are to be made [F2005L00631]*.
- Civil Aviation Act—
  - Civil Aviation Safety Regulations—Airworthiness Directives—Part 105—
    - AD/B747/325—Post Nacelle Strut Modification Inspections [F2005L00583]*.
    - AD/PC-6/51—Stabiliser-Trim Attachment Components—Inspection/Replacement [F2005L00605]*.
- Civil Aviation Regulations—Instrument No. 76/05 [F2005L00547]*.
- Corporations Act—Corporations (Foreign Exchange Markets) Exemption Amendment Notice 2005 (No. 1) [F2005L00629]*.
- Customs Act—Tariff Concession Order 0410525 [F2005L00566]*.

* Explanatory statement tabled with legislative instrument.

Indexed Lists of Files

The following documents were tabled pursuant 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—Statements of compliance—
- Employment and Workplace Relations portfolio agencies.
- Official Secretary to the Governor-General.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Family and Community Services: Advertising Campaign**

(Question No. 116)

Senator Faulkner asked the Minister for Family and Community Services, upon notice, on 19 November 2004:

With reference to the proposed Elimination of Domestic Violence advertising campaign:

(1) For each of the financial years, 2003-04 and 2004-05: (a) what is the cost of this advertising campaign; and (b) what is the breakdown of these advertising costs for: (a) television (TV) placements; (b) radio placements; (c) newspaper placements; (d) printing and mail outs; and (e) research.

(2) What: (a) creative agency or agencies; and (b) research agency or agencies; have been engaged for the campaign.

(3) When will the campaign begin, and when is it planned to end.

(4) If there is a mail out planned, to whom will it be targeted and what database will be used to select addresses – the Australian Taxation Office database, the electoral database or other.

(5) (a) What appropriations will the department use to authorise any of the payments either committed to be made or proposed to be made as part of this advertising campaign; (b) will those appropriations be made in the 2003-04 or 2004-05 financial year; (c) will the appropriations relate to a departmental or administered item or the Advance to the Minister for Finance and Administration; and (d) if an appropriation relates to a departmental or administered item, what is the relevant line item in the relevant Portfolio Budget Statement for that item.

(6) Has a request been made of the Minister for Finance and Administration to issue a drawing right to pay out moneys for any part of the advertising campaign; if so: (a) what are the details of that request; and (b) against which particular appropriation is it requested that the money be paid.

(7) Has the Minister for Finance and Administration issued a drawing right as referred to in paragraph (6) above; if so, what are the details of that drawing right.

(8) Has an official or minister made a payment of public money or debited an amount against an appropriation in accordance with a drawing right issued by the Minister for Finance and Administration for any part of the advertising campaign.

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

(1) (a) The cost of the advertising campaign in 2003-04 was $11,678,170 and $196,449 in 2004-05. (ba) The cost of television placements was $5,818,218*. (bb) The cost of radio placements was $327,750*. (bc) The cost of newspaper placements was $64,719*. (bd) Printing and mail outs cost $3,962,227. (be) Research cost $652,150.

*These figures, provided by the Government Communications Unit are “pure” media costs and therefore exclude despatch fees and commissions.

*All figures exclude GST.

(2) (a) Grey Worldwide Pty Ltd. (b) Elliott and Shanahan Research.

(3) The campaign was launched on 6 June 2004 with the Helpline, counselling and referral service continuing until 6 June 2005.

(4) There was a mail out of the campaign booklet in June 2004. The booklets were unaddressed, distributed to all households by Australia Post and did not, therefore, use any database.
QUESTIONS ON NOTICE

(5) (a) The Department authorises payments for the campaign under the Partnerships Against Domestic Violence and National Initiative to Combat Sexual Assault appropriations. (b) Appropriations have been made in both the 2003-04 and 2004-05 financial years. (c) The appropriations relate to administered items. (d) The line item in the Portfolio Budget Statements is reported as Partnerships Against Domestic Violence2 and the National Approach against Sexual Assault.

(6) No. (a) Not applicable. (b) Not applicable.

(7) No.

(8) No.

Heath and Ageing: Advertising Campaign
(Question No. 119)

Senator Faulkner asked the Minister representing the Minister for Health and Ageing, upon notice, on 19 November 2004:

With reference to the proposed Illicit Drugs—Targeting Youth advertising campaign:

(1) For each of the financial years, 2003–04 and 2004–05: (a) what is the cost of this advertising campaign; and (b) what is the breakdown of these advertising costs for: (a) television (TV) placements; (b) radio placements; (c) newspaper placements; (d) printing and mail outs; and (e) research.

(2) What: (a) creative agency or agencies; and (b) research agency or agencies; have been engaged for the campaign.

(3) When will the campaign begin, and when is it planned to end.

(4) If there is a mail out planned, to whom will it be targeted and what database will be used to select addresses – the Australian Taxation Office database, the electoral database or other.

(5) (a) What appropriations will the department use to authorise any of the payments either committed to be made or proposed to be made as part of this advertising campaign; (b) will those appropriations be made in the 2003-04 or 2004-05 financial year; (c) will the appropriations relate to a departmental or administered item or the Advance to the Minister for Finance and Administration; and (d) if an appropriation relates to a departmental or administered item, what is the relevant line item in the relevant Portfolio Budget Statement for that item.

(6) Has a request been made of the Minister for Finance and Administration to issue a drawing right to pay out moneys for any part of the advertising campaign; if so: (a) what are the details of that request; and (b) against which particular appropriation is it requested that the money be paid.

(7) Has the Minister for Finance and Administration issued a drawing right as referred to in paragraph (6) above; if so, what are the details of that drawing right.

(8) Has an official or minister made a payment of public money or debited an amount against an appropriation in accordance with a drawing right issued by the Minister for Finance and Administration for any part of the advertising campaign.

Senator Patterson—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) For the 2003-04 financial year:

(a) The cost of this campaign for the 2003-04 financial year was $373,000.

(b) The breakdown of the advertising costs were as follows:

(a) Nil

(b) Nil

(c) Nil

QUESTIONS ON NOTICE
(d) Nil
(e) $240,624 for developmental research.

For the 2004-05 financial year:
(a) The cost of this campaign for the 2004-05 financial year to date is $1,583,000.
(b) The breakdown of the advertising costs are as follows:
   (a) Nil to date
   (b) Nil to date
   (c) Nil to date
   (d) Nil to date
   (e) $347,093 to date for developmental and benchmark research.

(2) (a) Batey Redcell Australia has been appointed as the creative advertising agency.
      (b) Blue Moon Research and Planning has been appointed to conduct developmental research.
           The Social Research Centre has been appointed to conduct evaluation research.

(3) The start and end dates of the campaign have not been determined.

(4) A decision has not been made, to date, to undertake mailouts.

(5) (a) The appropriation for this campaign is from Outcome 1 (Population Health and Safety), Administered Item 1 (Population Health), Bill 1.
      (b) Expenditure will occur in both the 2003–04 and 2004–05 financial years.
      (c) Administered Item 1 (Population Health).
      (d) Outcome 1 (Population Health and Safety), Administered Item 1 (Population Health), Bill 1.

(6) No.

(7) No.

(8) No.

Immigration: Christmas Island Reception and Processing Centre
(Question No. 268)

Senator O’Brien asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 23 December 2004:

With reference to the proposed new Immigration Reception and Processing Centre (IRPC) on Christmas Island:

(1) (a) What is the current estimated total cost of construction including related costs; and (b) will the Minister provide a detailed breakdown of the cost.

(2) (a) What funds have been expended so far; and (b) will the Minister provide a detailed breakdown of the cost by financial year.

(3) Will the Minister provide a list of all contracts let for the construction phase of the project, including the successful tenderer.

(4) On what date will: (a) the early works phase of the project be completed; (b) the main works phase of the contract commence; (c) the main works phase of the contract be completed; and (d) the IRPC be operational.

(5) (a) What compensation was paid to Phosphate Resources Limited for the resumption of land for the IRPC; (b) on what date was this compensation paid; (c) who undertook the negotiations on behalf of the Commonwealth; (d) which Minister approved the compensation; and (e) what program was the source of the compensation funds.

QUESTIONS ON NOTICE
(6) (a) What consultants have been engaged in relation to the IRPC project; and (b) in each case, what was the nature of the consultancy, the term of the consultancy and the associated financial value.

(7) (a) On what date did the Department of Finance and Administration assume responsibility for the project; (b) why did the Department of Finance and Administration assume responsibility for the project; and (c) what other IRPC construction projects did the Department of Finance and Administration manage prior to the transfer of responsibility for the IRPC project.

(8) What role does the Department of Immigration and Multicultural and Indigenous Affairs perform in relation to the project during planning and construction.

(9) What role does the Department of Transport and Regional Services perform in relation to the project during planning and construction.

(10) Have all contracts let for the construction phase of the project included local training and local business content; if so, will the Minister provide details; if not, why not.

(11) Has the local training and local business involvement which formed part of the assessment criteria for the major works contract been consistent with evidence given by the Department of Finance and Administration to the Joint Standing Committee on Public Works on 31 October 2003; if so, will the Minister provide details; if not, why not.

(12) Will local training and employment and local business involvement form part of the assessment criteria for the service contract for the operation of the IRPC; if not, why not.

(13) Will the Christmas Island community have access to recreational and other facilities at the IRPC, subject to operational needs.

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

The Minister for Finance and Administration is responsible for construction of the Christmas Island Immigration Reception Processing Centre (IRPC) project. The following responses are in relation to issues affecting my portfolio.

(1) (a) The estimated total cost to the Department of Immigration and Multicultural and Indigenous Affairs for the Christmas Island IRPC project is some $25.535m being $20.419m in capital and $5.116m in recurrent.

(b) The current estimated total cost to the Department of Immigration and Multicultural and Indigenous Affairs for the Christmas Island IRPC project is some $25.535m. This cost is broken down as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>construction camp</td>
<td>$9.684m</td>
</tr>
<tr>
<td>bulk earthworks</td>
<td>$10.735m</td>
</tr>
<tr>
<td>project design and management</td>
<td>$2.498m</td>
</tr>
<tr>
<td>internal costs</td>
<td>$2.618m</td>
</tr>
</tbody>
</table>

(2) (a) Expenditure to date by the Department of Immigration and Multicultural and Indigenous Affairs (as at 31 December 2004) is $24.324m.

(b) The breakdown of the cost by financial year:

<table>
<thead>
<tr>
<th></th>
<th>2001-02</th>
<th>2002-03</th>
<th>2003-04</th>
<th>2004-05</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction</td>
<td>-</td>
<td>$20.419</td>
<td>-</td>
<td>-</td>
<td>$20.419m</td>
</tr>
<tr>
<td>Design &amp; Management</td>
<td>$.693m</td>
<td>$1.202m</td>
<td>$.279m</td>
<td>$.030m</td>
<td>$2.204m</td>
</tr>
<tr>
<td>Internal Costs</td>
<td>$.231m</td>
<td>$1.099m</td>
<td>$.219m</td>
<td>$.151m</td>
<td>$1.701m</td>
</tr>
</tbody>
</table>

(3) The contracts let by the Department of Immigration and Multicultural and Indigenous Affairs below relate to the construction phase of the original 1200 bed project prior to 18 February 2003:
(4) (a) I note this question has also been directed to the Minister for Finance and Administration and it is more appropriate that he provide a response.

(b) I note this question has also been directed to the Minister for Finance and Administration and it is more appropriate that he provide a response.

(c) I note this question has also been directed to the Minister for Finance and Administration and it is more appropriate that he provide a response.

(d) The IRPC will be commissioned in the 3 months following the completion of construction. Following commissioning the facility will be ready to operate.

(5) (a) I note this question has also been directed to the Minister for Local Government, Territories and Roads and it is more appropriate that he provide a response.

(b) I note this question has also been directed to the Minister for Local Government, Territories and Roads and it is more appropriate that he provide a response.

(c) I note this question has also been directed to the Minister for Local Government, Territories and Roads and it is more appropriate that he provide a response.

(d) I note this question has also been directed to the Minister for Local Government, Territories and Roads and it is more appropriate that he provide a response.

(e) I note this question has also been directed to the Minister for Local Government, Territories and Roads and it is more appropriate that he provide a response.

(6) The following consultants have been engaged by the Department of Immigration and Multicultural and Indigenous Affairs in relation to the Christmas Island IRPC project:

<table>
<thead>
<tr>
<th>Name</th>
<th>Service</th>
<th>Term</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deloitte Touche Tohmatsu</td>
<td>Probity Advice</td>
<td>35 months</td>
<td>$0.025m</td>
</tr>
<tr>
<td>Corporate Risk Solutions</td>
<td>Security and Operation advice on design</td>
<td>Ad hoc on a daily basis as required</td>
<td>$0.013m</td>
</tr>
<tr>
<td>Phillipa Milne &amp; Associates</td>
<td>Medical planning advice on design</td>
<td>Ad hoc on a daily basis as required</td>
<td>$0.006m</td>
</tr>
<tr>
<td>NSW Department of Public Works</td>
<td>Architectural and buildability advice</td>
<td>Ad hoc on a daily basis as required</td>
<td>$0.005m</td>
</tr>
<tr>
<td>Crow Consulting</td>
<td>Construction capability advice during the main works contract tender</td>
<td>Ad hoc on a daily basis as required</td>
<td>$0.006m</td>
</tr>
<tr>
<td>SKM</td>
<td>Site Survey</td>
<td>Ad hoc on a daily basis as required</td>
<td>$0.004m</td>
</tr>
<tr>
<td>Rider Hunt</td>
<td>Quantity Surveying</td>
<td>Ad hoc on a daily basis as required</td>
<td>$0.003m</td>
</tr>
</tbody>
</table>
(7) (a) 18 February 2003.
(b) Transfer of the project recognised the Department of Finance and Administration’s capabilities in procurement and construction project management, particularly in traditional delivery methods.
(c) None.

(8) The Department of Immigration and Multicultural and Indigenous Affairs is involved in the approval of the design and construction as fit for purpose.

(9) I note this question has also been directed to the Minister for Local Government, Territories and Roads and it is more appropriate that he provide a response.

(10) None of the contracts let by the Department of Immigration and Multicultural and Indigenous Affairs in the original 1200 bed project included a local training and local business content requirement in the contract due to the fast track nature of the project.

(11) I note this question has also been directed to the Minister for Finance and Administration and it is more appropriate that he provide a response.

(12) The Detention Service Provider (GSL (Australia) Pty Ltd), operates the detention facilities under contract to the Commonwealth and was selected on the basis of the best value for money offer to the Commonwealth for the operation of all detention facilities. The contract was signed in August 2003 for a term of four years. The Commonwealth has an option to extend the contract up to a maximum of a further three years. There was not a specific criterion for local training and local business involvement for Christmas Island. However, I am advised that the labour force currently employed by the Detention Service Provider for work in the temporary Christmas Island IRPC includes many local residents.

(13) The design and purpose of the IRPC excludes ad hoc use of the facility by members of the community. The community may on occasions access the facility through organised events involving detainees and the community.

**Quarantine: Salmon**

(Question No. 304)

*Senator O’Brien* asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 23 December 2004:

With reference to the discovery of live sea lice in a shipment of imported salmon on 3 September 2003:

1. What was the exporting country.

2. When did the shipment depart.

3. If not exported from the country of origin, what was the exporting country.

4. What was the port of departure.

5. When did the shipment arrive in Australia.

6. What was the port of arrival.

7. What salmonid species did the shipment contain.

8. When did the Australian Quarantine and Inspection Service (AQIS) issue the permit to import quarantine material.

9. When was the official certificate issued by an AQIS-recognised Competent Authority in the exporting country.

10. What was the form, presentation and weight of the salmon.

11. What was the intended end use of the salmon, including, if applicable, commercial processing, processing for retail sale and/or direct retail sale.

**QUESTIONS ON NOTICE**
(12) When and where did AQIS first inspect the salmon.
(13) When was the salmon seized.
(14) Was the salmon ordered to be frozen, if so: (a) when was that order made, and (b) on what date was the salmon frozen.
(15) In relation to the sea lice analysis: (a) when did this commence and conclude; (b) where was this done; and (c) who conducted the analysis.
(16) When was the Minister and/or his office and/or his department informed about the analysis findings: (a) what are the analysis findings, including: (i) details of the sea lice species, (ii) whether the species are usually found in Australian waters, and (iii) whether the sea lice present a quarantine risk.
(17) (a) When did AQIS consult with Food Standards Australia New Zealand and state and territory food agencies about the salmon; (b) what state and territory food agencies were consulted; and (c) what was the nature of those consultations.
(18) In relation to the outcome of the sea lice discovery and analysis: (a) If the salmon was released for sale: (i) when, (ii) what conditions, if any, were placed on its end use, and (iii) what was its end use; (b) if the salmon was ordered to be re-exported: (i) when was that order made, (ii) when was the salmon exported, (iii) how was the exported salmon labelled; and (iv) to what country was it exported; (c) if the salmon was ordered to be destroyed: (i) when was that order made, (ii) when and how was it destroyed.

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:
There were no live sea lice discovered in imported salmon on 3 September 2003. The following answers cover two consignments of fresh chilled salmon that were detected by AQIS on 3 September 2003 to have a number of dead sea lice.
(1) Norway and The Netherlands.
(2) This information is not available. Shipments typically depart on the same day or up to two days after the inspection date. The inspection date which appeared on the health certificate was 29 August 2003.
(3) The consignments were exported from the country of origin, Norway, and The Netherlands.
(4) Oslo and Amsterdam.
(5) On 2 and 3 September 2003.
(6) Sydney.
(7) Atlantic salmon – Salmo Salar.
(8) 3 and 22 July 2002.
(9) 29 August 2003.
(10) Head-off gutted trunks weighing 1026.90kg (44 cartons) and 909.00kg (44 cartons).
(11) Processing for retail and/or direct retail sale.
(13) AQIS placed a quarantine hold on the salmon on 3 September 2003.
(14) Yes. (a) 4 September 2003. (b) 4 September 2003.
(15) (a) 3 September 2003 and 8 September 2003. (b) Sydney and Townsville (c) AQIS entomologist Sydney and the Australian Institute of Marine Science Townsville.
(16) 8 September 2003. (a) (i) the lice were identified as Lepeophtheirus salmonis, a copepod. (ii) No. (iii) No.

(17) (a) 3 September 2003 (FSANZ and some State health agencies) and on 8 September FSANZ as chair of the Technical Advisory Group (TAG) forwarded an AQIS request seeking views on the issue to all TAG members. (b) Safe Food Queensland, NSW Health, Victorian Department of Health, Tasmanian Department of Health and Human Services, South Australian Health Commission, Western Australian Department of Health, Northern Territory Health Services and ACT Health. (c) AQIS sought the views on whether the salmon was acceptable from a food safety and/or food standards perspective.

(18) (a) The salmon was released for sale. (i) 10 September 2003. (ii) No conditions were placed on end use. (iii) AQIS does not have this information. (b) No product was re-exported (c) No salmon was ordered to be destroyed.

**Pan Pharmaceuticals Ltd**  
(Question No. 313)

**Senator Allison** asked the Minister representing the Minister for Health and Ageing, upon notice, on 17 January 2005:

With reference to the recall on 28 April 2003 of products manufactured by Pan Pharmaceuticals: For each of the 62 serious adverse events occurring in individuals who consumed products for which Pan Pharmaceuticals was an approved manufacturer and that were reported in the 12 months prior to the Pan Pharmaceuticals recall, can the Adverse Drug Reactions Advisory Committee provide a copy of the individual printout from their database; if not, why not.

**Senator Patterson**—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

Computer generated records of the 62 individual reports are available from the Senate Table Office. These records do not include confidential information or personal identifiers and are described as “public case details”.

Many of the reports contain an age of “2002” or date of birth of “01/01/0001”. These are the default entries for these fields for when the information was not provided by the reporter.