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SITTING DAYS—2005

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RADIO BROADCASTS

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

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- SYDNEY 630 AM
- NEWCASTLE 1458 AM
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- 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
Members of the Senate

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(1) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.

(2) Chosen by the Parliament of Queensland to fill a casual vacancy vice Hon. Warwick Raymond Parer, resigned.

(3) Chosen by the Parliament of Queensland to fill a casual vacancy vice John Woodley, resigned.

(4) Chosen by the Parliament of South Australia to fill a casual vacancy vice John Andrew Quirke, resigned.

(5) Appointed by the Governor of Tasmania to fill a casual vacancy vice Hon. Brian Francis Gibson AM, resigned.

(6) Chosen by the Parliament of Queensland to fill a casual vacancy vice Hon. John Joseph Herron, resigned.

(7) Chosen by the Parliament of Victoria to fill a casual vacancy vice Hon. Richard Kenneth Robert Alston, resigned.

**PARTY ABBREVIATIONS**

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

**Heads of Parliamentary Departments**

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


HOWARD MINISTRY

Prime Minister

The Hon. John Winston Howard MP

Minister for Transport and Regional Services and
Deputy Prime Minister

The Hon. John Duncan Anderson MP

Treasurer

The Hon. Peter Howard Costello MP

Minister for Trade

The Hon. Mark Anthony James Vaile MP

Minister for Defence and Leader of the Govern-
ment in the Senate

Senator the Hon. Robert Murray Hill

Minister for Foreign Affairs

The Hon. Alexander John Gosse Downer MP

Minister for Health and Ageing and Leader of the
House

The Hon. Anthony John Abbott MP

Attorney-General

The Hon. Philip Maxwell Ruddock MP

Minister for Finance and Administration, Deputy
Leader of the Government in the Senate and
Vice-President of the Executive Council

Senator the Hon. Nicholas Hugh Minchin

Minister for Agriculture, Fisheries and Forestry

The Hon. Warren Errol Truss MP

Minister for Immigration and Multicultural and
Indigenous Affairs and Minister Assisting the
Prime Minister for Indigenous Affairs

Senator the Hon. Amanda Eloise Vanstone

Minister for Education, Science and Training

The Hon. Dr Brendan John Nelson MP

Minister for Family and Community Services and
Minister Assisting the Prime Minister for
Women’s Issues

Senator the Hon. Kay Christine Lesley Patterson

Minister for Industry, Tourism and Resources

The Hon. Ian Elgin Macfarlane MP

Minister for Employment and Workplace Rela-
tions and Minister Assisting the Prime Minister
for the Public Service

The Hon. Kevin James Andrews MP

Minister for Communications, Information Tech-
nology and the Arts

Senator the Hon. Helen Lloyd Coonan

Minister for the Environment and Heritage

Senator the Hon. Ian Gordon Campbell

(The above ministers constitute the cabinet)
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
Leader of the Opposition
The Hon. Kim Christian Beazley MP

Deputy Leader of the Opposition and Shadow Minister for Education, Training, Science and Research
Jennifer Louise Macklin MP

Leader of the Opposition in the Senate and Shadow Minister for Social Security
Senator Christopher Vaughan Evans

Deputy Leader of the Opposition in the Senate and Shadow Minister for Communications and Information Technology
Senator Stephen Michael Conroy

Shadow Minister for Health and Manager of Opposition Business in the House
Julia Eileen Gillard MP

Shadow Treasurer
Wayne Maxwell Swan MP

Shadow Minister for Industry, Infrastructure and Industrial Relations
Stephen Francis Smith MP

Shadow Minister for Foreign Affairs and International Security
Kevin Michael Rudd MP

Shadow Minister for Defence and Homeland Security
Robert Bruce McClelland MP

Shadow Minister for Trade
The Hon. Simon Findlay Crean MP

Shadow Minister for Primary Industries, Resources and Tourism
Martin John Ferguson MP

Shadow Minister for Environment and Heritage and Deputy Manager of Opposition Business in the House
Anthony Norman Albanese MP

Shadow Minister for Public Administration and Open Government, Shadow Minister for Indigenous Affairs and Reconciliation and Shadow Minister for the Arts
Senator Kim John Carr

Shadow Minister for Regional Development and Roads and Shadow Minister for Housing and Urban Development
Kelvin John Thomson MP

Shadow Minister for Finance and Superannuation
Senator the Hon. Nicholas John Sherry

Shadow Minister for Work, Family and Community, Shadow Minister for Youth and Early Childhood Education and Shadow Minister Assisting the Leader on the Status of Women
Tanya Joan Plibersek MP

Shadow Minister for Employment and Workplace Participation and Shadow Minister for Corporate Governance and Responsibility
Senator Penelope Ying Yen Wong

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

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<td>Laurence Donald Thomas Ferguson MP</td>
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<td>Gavan Michael O’Connor MP</td>
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<td>Shadow Assistant Treasurer, Shadow Minister for Revenue and Shadow Minister for Banking and Financial Services</td>
<td>Joel Andrew Fitzgibbon MP</td>
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<td>Shadow Attorney-General</td>
<td>Nicola Louise Roxon MP</td>
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<tr>
<td>Shadow Minister for Regional Services, Local Government and Territories</td>
<td>Senator Kerry Williams Kelso O’Brien</td>
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<td>Shadow Minister for Manufacturing and Shadow Minister for Consumer Affairs</td>
<td>Senator Kate Alexandra Lundy</td>
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<td>Shadow Minister for Defence Planning, Procurement and Personnel and Shadow Minister Assisting the Shadow Minister for Industrial Relations</td>
<td>The Hon. Archibald Ronald Bevis MP</td>
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<td>Shadow Minister for Sport and Recreation</td>
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<td>Shadow Minister for Veterans’ Affairs</td>
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<td>Shadow Minister for Small Business</td>
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<td>Shadow Minister for Justice and Customs, Shadow Minister for Citizenship and Multicultural Affairs and Manager of Opposition Business in the Senate</td>
<td>Senator Joseph William Ludwig</td>
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<td>Shadow Parliamentary Secretary to the Leader of the Opposition</td>
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Tuesday, 15 March 2005

The PRESIDENT (Senator the Hon. Paul Calvert) took the chair at 12.30 p.m. and read prayers.

BUSINESS

Rearrangement

Senator ELLISON (Western Australia—Manager of Government Business in the Senate) (12.30 p.m.)—I move:

That government business notice of motion no. 1 standing in the name of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Colbeck) for today, relating to the approval of works proposed in the Parliamentary Zone, be postponed till a later hour.

Question agreed to.

APPROPRIATION (TSUNAMI FINANCIAL ASSISTANCE) BILL 2004-2005

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

Second Reading

Debate resumed from 14 March, on motion by Senator Coonan:

That these bills be now read a second time.

Senator STEPHENS (New South Wales) (12.31 p.m.)—When this debate was adjourned last night, I was talking about the importance of ensuring that the Appropriation (Tsunami Financial Assistance and Australia-Indonesia Partnership) Bill 2004-2005 is not seen to be putting the welfare of large corporations above the welfare of poor Indonesians. I know that this was not what ordinary Australians wanted when they dug so deep to provide financial assistance. In fact, what Australians want in this process is to ensure that proper procedures are put in place regarding procurement, auditing, reporting and pay standards. They want reconstruction programs that put money into the pockets of the people who are left without a source of income, such as cash-for-work programs. But credit and microfinance are also important for the thousands of small businesses with no access to the formal banking sector that must access credit through development banks and microfinance institutions. The government should be under no illusion that Australians have lost interest in the plight of the Indonesians or that, knowing the government has pledged a billion dollars in aid, they have handed over responsibility.

We are all aware of local efforts, and I would like to mention some local contributions to the relief effort of which I have been aware. All members and senators have received an email from Senator Marise Payne, as convenor of the Australian Parliamentary Association of UNICEF, seeking support for the ‘School in a box’ program. I contacted schools in Goulburn about the program and encouraged them to participate. I am very proud that the Trinity Catholic College students collected more than $1,400 in that effort. In another fantastic effort, St Joseph’s Primary School at North Goulburn—a wonderful parish school—had a gold coin collection and raised almost $600.

Individuals, too, have made their mark. John Crooks, a dedicated funeral director from Goulburn, visited Aceh to share his expertise. Jack Saeck lent his support to Father Riley’s orphanage project. Tony Flynn, a local potter and materials scientist at the ANU, has invented an ingenious water filtration system—perfect for conditions in Indonesia. What makes this water filter ingenious is that it is based on a handful of clay, yesterday’s coffee grounds and some cow manure. It is simple, new technology that allows water filters to be made from commonly available materials and fired on the ground using cow manure as the source of heat.
without the need for kilns. The filters have been tested and shown to remove common pathogens, including *E. coli*. They are simple and inexpensive to make. As Tony Flynn says:

They are very simple to explain and demonstrate and can be made by anyone, anywhere. They don’t require any Western technology. All you need is terracotta clay, a compliant cow and a match.

The ACTU is also committed to ensuring that aid goes directly to the devastated communities so that reconstruction can take place in a genuine partnership arrangement. The ACTU’s overseas aid arm, Union Aid Abroad-APHEDA, worked closely with the Indonesian branch of the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Associations, the IUF, to send teams of volunteer doctors, nurses, paramedics and engineers from IUF-affiliated unions to Meulaboh, formerly a city of 78,000 people on the west coast of Aceh. APHEDA is also exploring options for a longer term development program through vocational skills training and capacity building for local community organisations.

Given the reality of all these people’s efforts, they deserve to know where and how Australia’s aid money is being spent and to be reassured that there are checks and balances in place to deter opportunistic profiteering. It is no mere quibble to ask for the transparency and wider publicity of the aid budget when the Australian aid budget funds the dispatch of troops for security overseas—for example, in the Solomons—and the salaries of Australia’s Federal Police occupying senior positions in the state bureaucracies of PNG. Money spent offshore persecuting asylum seekers also figures in Australia’s aid budget, as does money for rebuilding Iraq. So, when we are considering the distribution of the enormous current aid package to Indonesia, the Australian taxpayer has a right to be kept fully informed about how the funding is allocated.

We need to be extremely vigilant about the role played by our military assistance. We must not forget that Australian military personnel in Aceh for humanitarian purposes—those unarmed engineers and medical staff who are helping out—are nevertheless a military presence. We need to remember that and ensure that an unwanted effect of the tsunami disaster is not a strengthening of Australia’s military presence in Indonesia. It would be a bitter irony indeed if by administering aid in this form, we actually contributed to the dependence of the people of Aceh rather than fostering their independence and freedom.

Labor support the Australia-Indonesia Partnership for Reconstruction and Development in principle. However, we also wait with interest for more details from the government on how the partnership will be established. Who will represent both Australia and Indonesia on the partnership? How will decisions about funding be made? Labor, like all Australians, are anxious to hear that an administration framework will be established which will ensure participation, fairness, effectiveness, integrity, accountability and transparency to the parliament and the people of Australia. I commend the bill to the Senate.

Senator NETTLE (New South Wales) (12.37 p.m.)—I have spoken in this chamber already this year about the tragedy of the tsunami disaster and how, for example, Greens MPs were present in Sri Lanka at the time and the work that we have been doing subsequently to support the people affected by the tsunami. I also spoke last week about Australia’s aid program and the sorts of aid that the Australian Greens believe are most...
appropriate and that aid workers recognise deliver the best outcome.

I want to focus today on the aid contribution of $1 billion. The Greens support the provision of $1 billion to help the Indonesian people recover from the tsunami tragedy. We have some concerns, as I note the speaker before me has also expressed, about how and where the aid package will be spent. I have already spoken on the issues about the sorts of aid that we support—that is, aid that is directed at a community level, which the people of Aceh are involved in delivering and which is delivered in a way which provides the best services to them on the ground using their local expertise so that they can have an ongoing contribution to their own economic independence.

What I want to talk about today is the fact that we are opposed to the provision of around half the support included in this package in the form of loans rather than a straight-out donation. We are concerned about that because the debt crisis that has become a burning global issue in the last few years is getting worse not better, and Indonesia is one of the countries worst hit by this debt crisis. Around the world, total debt continues to rise while total overseas aid is falling. This is a crisis of monumental proportions. The developing world now spends $13 on debt repayments for every $1 it receives in aid. Every dollar that is spent in repaying debt is a dollar that could be spent on addressing the AIDS crisis, sending a child to school, installing water and sewerage systems in rural areas, or job creation. Ending the poverty that entraps the two billion people living on less than $2 a day will only be achieved if we solve this debt crisis.

The debt crisis is also fuelling environmental problems, with governments under even more pressure to increase resource exports, at the expense of forests and rivers, so as to service their crushing debt payments. The total external debt of tsunami affected countries is over $272 billion. The Prime Minister’s reluctant acceptance of a form of debt relief by supporting the Paris Club’s rescheduling of debt is a belated recognition of this crisis, but it only puts off the problem. Indonesia’s massive debt will remain and it will continue to hamstring future generations. The Appropriation (Tsunami Financial Assistance and Australia-Indonesia Partnership) Bill 2004-2005 will make the problem worse by lumbering Indonesia with a further half a billion dollars in debt at a time when it cannot even deal with the debt it already has. A moratorium on repayments and making the loan interest free do not address the fundamental problem, which is that Australia will be adding to Indonesia’s debt crisis.

Much of Indonesia’s debt was accumulated under the corrupt and brutal Suharto regime, which was supported by both Labor and Liberal governments in Australia. This debt funded, amongst other things, military hardware used to suppress independence movements, including in Aceh. In 1997 the Asian economic crisis, exacerbated by the policies of the International Monetary Fund, devastated Indonesia’s economy and it had not recovered from this when the tsunami struck last year. In the years since the Asian economic crisis, Indonesia’s public debt has doubled, to around $130 billion, and combined with private debt is over $143 billion, an amount equal to or greater than Indonesia’s gross domestic product. More importantly, its current debt service ratio—that is, the principal debt payments plus the interest payments as a proportion of export earnings—is around 50 per cent; that is, half of what Indonesia earns goes towards debt payments. This is why debt servicing consumes as much as half of Indonesia’s budget.

Previous rounds of limited debt cancellation announced by rich countries have not
included Indonesia. This is despite the reality of Indonesia’s debt problem and the incredible poverty of its people. According to the United Nations, over 50 per cent of Indonesia’s people live on or on less than $US2 a day. That is less than the price of a cup of coffee or a schooner of beer, and it is all that most people have to survive on each day. Providing support in the form of loans will exacerbate this poverty as successive governments are forced to choose between debt repayments and the needs of their people. There is no reason why this half a billion dollars could not be provided in the form of aid, as a straight donation. This is why the Greens will be asking the Senate to support an amendment that we will move to spell out clearly the Senate’s opposition to increasing Indonesia’s debt.

We believe that Australia could and should be doing more. We can afford to be providing more aid rather than creating a further debt trap for Indonesia. The Greens will support this appropriation for aid. As we said at the beginning, it is a good thing but it is not the very best that Australia could be doing. We should be increasing Indonesia’s aid without increasing its debt. We should be ensuring Indonesian non-government organisations and companies deliver the aid, not the Indonesian military and large Australian corporate businesses. We should support poverty alleviation more than national security and growth-driven inequality in the way in which we deliver the aid. The Greens will continue to hold the government accountable for how this aid is spent and we will continue to campaign for a real aid program so that Australia can genuinely join the global effort to make poverty history.

Senator WEBBER (Western Australia) (12.43 p.m.—The Appropriation (Tsunami Financial Assistance and Australia-Indonesia Partnership) Bill 2004-2005 and the Appropriation (Tsunami Financial Assistance) Bill 2004-2005 are the Australian government’s response to the dreadful events of 26 December last year. There can be no doubt that the approach of the government on this issue is the correct one. The importance of relief operations is not to be underestimated. When these bills were debated in the other place, the shadow minister for foreign affairs, Kevin Rudd, outlined that there were five immediate needs that required assistance—a point that was also made in the Senate last night by Senator Stephens. They were, in brief: housing and shelter; enterprise, commerce and income creation; rebuilding the rural economy; provision of public services; and assistance to the vulnerable.

I do not intend to take up any time during my contribution to add to the many valuable contributions already made in addressing these needs. Rather, I want to focus on an area that, although it received much attention in the immediate aftermath of the tsunami, still requires constant attention. That area is an Indian Ocean tsunami warning system. I applaud the government for the work outlined in this legislation, but it is also important that we start to plan for a warning system. Australia needs to begin building a warning system that will ensure that people living in the Indian Ocean area are never again struck without warning by a tsunami. Not only must we begin the planning but we must also begin appropriating money in the upcoming budget for the development and deployment of such a system.

In my mind there is no better demonstration of the value of having Australia as a neighbour than the appropriation bills that we are discussing today. A further practical demonstration to our region would be to shoulder the burden of deploying and maintaining an Indian Ocean warning system. Let us be clear that we have to take the lead on this. How can we expect countries such as Bangladesh, Somalia, Kenya, Mauritius or
the Seychelles to contribute a reasonable share of the development or ongoing costs of such a system?

Early warning is not just about helping our neighbours, though; it is also in our own best interests. Much of the mineral wealth of this country is located in the north of Western Australia, to say nothing of the area offshore from that north-west coast. Many Australians live and work in areas that are on the Indian Ocean. Even if we do it for no other reason than self-interest, we will be helping many nations not able to do so themselves.

However, unlike many other projects that governments are called upon to fund, in this case the good news is that we do not have to start from scratch. The Pacific Tsunami Warning Centre in Hawaii provides exactly the sort of system that we should be funding in the Indian Ocean for ourselves and for our neighbours. We also do not have to start from scratch because there are already a number of organisations in Australia that have developed national warning systems for seismic and climate related threats, namely Geoscience Australia and the Bureau of Meteorology. What we do need to do is deploy that necessary equipment, recruit the personnel that are required and provide adequate funding into the future.

I am not attempting to take advantage of hindsight to argue that this should have been done before now. What I am arguing is that we must go about establishing a system as quickly as possible to assist all countries that have Indian Ocean coastlines. We also do not have to start from scratch because there are already a number of organisations in Australia that have developed national warning systems for seismic and climate related threats, namely Geoscience Australia and the Bureau of Meteorology. What we do need to do is deploy that necessary equipment, recruit the personnel that are required and provide adequate funding into the future.

For the benefit of the Senate, let me outline the process by which the Pacific Tsunami Warning Centre operates. The centre continuously monitors seismic activity and the ocean surface level of the Pacific Ocean. Once seismic activity is noted, the warning centre locates the origin of the event. Once the event has been located and the magnitude determined, the warning centre determines whether to issue an alert. If the magnitude is between 6.5 and 7.5, then a tsunami information bulletin is issued to all participating countries and organisations. In the event that an earthquake of greater than 7.5 is identified, then a tsunami warning bulletin is issued.

The warning centre will, in the event of an earthquake of greater than 7.5, check the water level data from automatic tide stations to determine whether a tsunami has been generated. If there is evidence that a tsunami has been generated, then the warning centre will continue to produce tsunami warning bulletins until that threat has passed. If it is clear from the water level monitoring that there is no possible tsunami, then the warning centre will cancel the warning bulletins.

Australia receives these bulletins from the Pacific Tsunami Warning Centre although tsunamis on our Pacific coasts are, fortunately, not that common. In fact, on 2 March this year the Pacific Tsunami Warning Centre issued a tsunami information bulletin for the earthquake that occurred in the Banda Sea. Due to the depth of that event, there was no risk of a tsunami being generated and there certainly was no risk of one taking place in the Pacific Ocean.

It is clear that many of the key elements are already in place to set up such an early warning centre. Geoscience Australia already monitors seismic activity in and around Australia. Geoscience Australia is part of a worldwide seismic monitoring network.
From evidence at the estimates committees in February this year, it is clear that Geoscience Australia has a fully automated monitoring system in place. So the first part of the system is in place and ready to go. Australia can monitor seismic activity continuously, although it is clear that Geoscience Australia rely on automated systems to provide around-the-clock monitoring.

The second part of any tsunami warning centre is the capacity to monitor water levels. There are two parts to being able to accurately monitor ocean water levels. The first is the ability to monitor water levels in shallow or coastal waters. In fact, during the tsunami on Boxing Day last year, the tidal recording equipment on the Cocos Islands measured a 50-centimetre increase in water level. Unfortunately, due to the distance from the seismic event to the Cocos Islands, it was some four hours after the initial earthquake. This increase was noted by the Bureau of Meteorology, and this was the first equipment to verify that a tsunami had taken place.

The bureau then issued warnings and contacted Emergency Management Australia. From the estimates round in February it is clear that Australia has a reasonably robust system of tidal gauges and monitoring equipment—some operated by the Commonwealth and some by various state agencies. Therefore, at least for Australia, the tidal ocean water level monitoring is also already in place. The missing part is the deep ocean assessment of tsunamis. Again, we do not have to start from scratch in this area because of the pioneering work in the United States and other Pacific nations.

The United States, as part of its deep ocean assessment and reporting of tsunamis project, or DART as it has become known, currently deploys six systems. These DART systems are deployed in areas where destructive tsunamis have occurred. The DART systems consist of an anchored sea floor bottom pressure recorder and a moored surface buoy for real time communications. This system is able to transmit data via satellite to relevant agencies. In standard mode these stations record sea levels every 15 minutes. Once an event has been recorded, these stations record sea levels every 15 seconds during the initial few minutes and then average once per minute for at least one hour after the event and in some situations for up to three hours. This system is able to detect tsunamis as small as one centimetre. The DART systems are able to be deployed at depths of up to 6,000 metres. The average life span of the DART system is one year for the surface buoy and two years for the bottom pressure recorder.

As I said earlier, it is clear that we can build upon the work of other nations in the Pacific who, over the years, have developed and continue to develop effective tsunami warning systems. Australia should and must take a lead in the development of an Indian Ocean tsunami warning system. Regardless of the amount of time that will pass before the next tsunami in the Indian Ocean we cannot afford any delay. Whilst I applaud the government for the funding announced in these bills, I make it clear that I for one will be paying close attention to the upcoming budget to ensure that we take the lead in developing an effective warning system, not only for Australia but for the Indian Ocean community.

Senator ABETZ (Tasmania—Special Minister of State) (12.53 p.m.)—I thank all the senators for their contributions to the second reading debate on the Appropriation (Tsunami Financial Assistance and Australia-Indonesia Partnership) Bill 2004-2005 and the Appropriation (Tsunami Financial Assistance) Bill 2004-2005. The Australia-Indonesia Partnership for Reconstruction and Development has received warm support
from ministers in the Indonesian government and has also received widespread recognition within our region. The partnership will not be an ordinary aid program; it will be Australia’s largest ever single bilateral development program. The partnership will be overseen by the Prime Minister and the Indonesian President, with day-to-day responsibility taken by a joint commission of Australian and Indonesian ministers. Australia will be represented by the Treasurer, Mr Costello, and the Minister for Foreign Affairs, Mr Downer. Mr Downer will co-chair the inaugural joint commission meeting in Canberra this Thursday, 17 March.

At its first meeting the joint commission will consider a range of issues which will affect the prompt and effective implementation of the partnership so we can begin reconstruction and development as soon as practicable. We envisage that the grants offered under the partnership will be used to assist communities in Indonesia rebuild and re-establish local infrastructure destroyed or damaged by the disaster as well as participate in education and training opportunities. The concessional loans provided through the partnership are aimed at reconstruction, including rehabilitation of major infrastructure.

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. The relevant instruments issued by my colleague the Minister for Finance and Administration were tabled in this place on Wednesday, 9 March 2005. By using special accounts, the funds will be separated from other aid money and be spent only on the precise purposes for which they have been established. This mechanism also ensures a high degree of transparency and accountability. The Appropriation (Tsunami Financial Assistance and Australia-Indonesia Partnership) Bill 2004-2005 will provide the financial weight to Australia’s partnership commitment. It will assist with the reconstruction and development of Indonesia and further strengthen our bilateral relationship.

The government is proud of the rapid and very effective Australian whole-of-government response in the aftermath of the tsunami. A range of government departments and agencies banded together in an extremely short time frame and under great pressure made a significant contribution to the emergency relief effort. In doing so, however, the government diverted funding from current programs. The Appropriation (Tsunami Financial Assistance) Bill 2004-2005 replaces that funding, requesting a total of $131.4 million in new appropriations. The tsunami financial assistance bills are representative of the obligation that the Australian community feels to assist those Australians immediately affected by the disaster to help neighbours who are in need and to develop a partnership for the future with our Indonesian neighbour.

It is often said that a crisis brings out the best in us all. The compassion and generosity of the Australian public to the tsunami disaster has been magnificent. In the immediate aftermath of the disaster, many Australians on holiday in the region gave whatever help they could on the ground. In addition, by 6 January over 2,000 Australians had registered to work overseas and assist with the relief effort. The Australian public has raised over $280 million to assist relief agencies. I think we can confidently say that we have been seeing the best from Australians in their response to this disaster. The Australian community can also be well satisfied that their government responded quickly and comprehensively to the immediate needs of Australians and our neighbours who were directly affected by the tsunami. I am sure that honourable senators will also join me in thanking not only our military and civilian
personnel but also those many Australians who volunteered their time and energy for their efforts since the tsunami struck these Indian Ocean communities.

In conclusion, I am pleased to support these bills. We have created this package because it is the right thing to do. To draw from what my colleague the Minister for Foreign Affairs said in the debate on these bills in the other place last week, it is about the common humanity which has been expressed by all speakers in the debate in this parliament. I commend the bills to the Senate.

Question agreed to.

Bills read a second time.

In Committee

APPROPRIATION (TSUNAMI FINANCIAL ASSISTANCE) BILL 2004-2005

Bill—by leave—taken as a whole.

Senator NETTLE (New South Wales) (1.00 p.m.)—Could the minister outline what Indonesia’s current public debt to Australia is? In my contribution to the second reading debate I mentioned that I knew the total Indonesian debt, but I do not know what proportion of that is to Australia. Could we be advised of that?

Senator ABETZ (Tasmania—Special Minister of State) (1.00 p.m.)—It will not come as a surprise that I do not actually carry that figure in my back pocket. Of course, one can ask, ‘Why not?’ The smallness of the back pocket, I dare say, is the answer to that! I am unable to assist the senator in that regard. I am sure the information is publicly available and I will take it on notice.

Senator NETTLE (New South Wales) (1.01 p.m.)—I raised these issues in my contribution to the second reading debate; I note that you were not the minister on duty at the time. I wanted to get some more information, so I shall try some other questions. The second reading contribution by the minister raised two questions for me. He outlined that this $1 billion was to be used for tsunami relief efforts in communities. My understanding of the Prime Minister’s statement when the announcement was made was that this money would contribute to not only tsunami relief efforts but other projects in Indonesia. Because the minister’s statement in his second reading contribution differed from the Prime Minister’s statement, I wanted to seek some clarification on that issue.

Senator ABETZ (Tasmania—Special Minister of State) (1.02 p.m.)—Can I suggest to the honourable senator that there is no conflict, but in the event that there were a conflict I would suggest that the Prime Minister’s speech would stand.

Senator NETTLE (New South Wales) (1.02 p.m.)—Thank you, Minister. I anticipated that that would be your response. You also said in your second reading contribution that the loan component of this package was to be spent on infrastructure. I wondered whether a condition of that part of the contribution is that it be spent only on infrastructure.

Senator ABETZ (Tasmania—Special Minister of State) (1.03 p.m.)—As I understand it, the concessional loans—given the nature of loans—are for infrastructure. That would be the purpose of the loans and they would not be for the sort of immediate help and other matters that were raised. As I understand it, it is split into two lots of $500 million, and the $500 million by way of loans will be for infrastructure.

Senator NETTLE (New South Wales) (1.04 p.m.)—I thank the minister for his response. If it turns out that that is not the case, could you come back with that information—if you are advised on that issue?
Senator ABETZ (Tasmania—Special Minister of State) (1.04 p.m.)—Yes.

Senator NETTLE (New South Wales) (1.04 p.m.)—I know you do not necessarily have someone to advise you on all of these questions, but I wanted to ask whether you were aware of the criteria for awarding tenders for the implementation of this aid program.

Senator ABETZ (Tasmania—Special Minister of State) (1.04 p.m.)—I am not aware of those. I would be surprised if they had been determined at this stage. The first meeting of the joint commission is on Thursday and I would assume that one of their tasks would be to develop guidelines and tender processes to ensure that the sort of transparency and rigour that we would want and that the Indonesian government would want is agreed between our two countries. So at this stage I would be surprised if that aspect had been finalised as there will be discussion between the two governments on those matters.

Senator NETTLE (New South Wales) (1.05 p.m.)—There was a report in the Australian Financial Review yesterday indicating:

Australian companies will be awarded the bulk of the contracts under the five-year aid package of grants and concessional loans ...

The article mentions particular companies that are likely bidders for projects—for example, Kerry Packer’s company GRM. GRM contracts involve a significant proportion of Australia’s aid budget, and it is mentioned again here in the context of this package. Could the minister confirm the accuracy or otherwise of that report in the Financial Review yesterday?

Senator ABETZ (Tasmania—Special Minister of State) (1.06 p.m.)—I have only just been handed this article. I was not aware of it. I dare say that some Australian companies may have some expertise that they would care to offer, but I trust that the process will be a rigorous one. As for whether Australian companies will be awarded the bulk of the contracts, it remains to be seen whether that will be the outcome, and I dare say that that would be one of the issues discussed on 17 March at the first meeting of the commission. Indonesian companies may also be included in any tendering process. I would have thought they would be interested along with Australian companies. But as to whether any priority is being given to Australian companies, I am unaware of that and I will take that on notice.

Senator NETTLE (New South Wales) (1.07 p.m.)—I have one more question. I recognise the need to take these questions on notice and so I appreciate those answers the minister is able to give and those he is subsequently able to return to the Senate with. Does the minister know how the government intends to report to parliament on the expenditure of this $1 billion?

Senator ABETZ (Tasmania—Special Minister of State) (1.08 p.m.)—I am advised that 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 associated regulations. Financial details, as with all special accounts, will be reported in the consolidated financial statement each year. Progress with implementing the partnership and outcomes achieved will also be reported in AusAID’s annual report. I am also pleased to note that the Australian government’s administrative costs associated with managing the partnership will be modest and covered separately from the partnership, allowing our $1 billion to have the maximum effect on Indonesia’s reconstruction and development. Given the process I have just outlined, you can pursue
the exact detail, of course, through the Senate estimates process.
Bill agreed to.

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

Bill—by leave—taken as a whole.

**Senator NETTLE** (New South Wales) (1.09 p.m.)—I move the Greens amendment, which was circulated last night on sheet 4541:

(1) Page 11, after clause 12 (after line 8), insert:

12A Expenditure limited to grants

Money expended under this Act is to be advanced by way of grant and not by way of loan.

I spoke to this amendment in my second reading contribution. This amendment ensures that half of the package that is proposed to be put forward as a loan is given as a grant. The reasons, which I went through in my second reading contribution, relate to the debt crisis that exists for countries like Indonesia. Developing countries are paying $13 in debt repayments for every $1 that they receive in aid. Australia’s contribution in supporting Indonesia, which we welcome and support, can best be delivered as a straight donation rather than as a loan which exacerbates the debt that Indonesia currently faces and the decisions that Indonesian government officials need to make all the way down the path about whether or not to service debt repayments or provide services for their people.

I have acknowledged already the reluctant acceptance by the Australian government of the Paris Club’s decision about debt rescheduling. It was not debt forgiveness. It simply puts off that process. I recognise that, in this contribution, there is an interest-free loan and other measures that the government has taken to ameliorate the worst aspects of this, but we are still contributing to Indonesia’s debt crisis, which is having a very significant effect on the ground for the people of Indonesia—people who are trying to get themselves out of poverty as a result of the enormous debt burden that Indonesia has to repay developed countries. It is the Australian Greens’ belief that this $1 billion as a package in tsunami assistance should be delivered in the form of straight aid and should not be delivered in the form of loans. That is what our amendment seeks to do.

**Senator SHERRY** (Tasmania) (1.11 p.m.)—I indicate to the chamber that Labor will not be supporting the amendment. As I argued last night, we believe that this is a very good package. If you look at the detail of the financial arrangements and the commitment that is being made, it is very substantial. We do not believe it would be appropriate to extend it beyond that which is indicated.

**Senator ABETZ** (Tasmania—Special Minister of State) (1.12 p.m.)—In direct response to the Greens amendment, I indicate that the loan component of the program is envisaged to be used for longer term projects such as economic infrastructure—for example, in the transport sector. Concessional loan programs are a recognised funding tool for development. It is a mechanism used by leading international development organisations, including the World Bank, the Asian Development Bank and many bilateral donors. The AIPRD loan program will be at least as concessional as those provided by other donor agencies.

Loan program terms and conditions are based on zero interest for up to 40 years with no repayment of principal for 10 years. I think that is important in relation to Senator Nettle’s amendment and some of the matters that she has raised. These terms will mean that Indonesia’s repayment liability will only
be $83 million in today’s money, which will have a negligible impact on Indonesian debt-servicing commitments while assisting Indonesian rates of growth and overall ability to repay debt and improve living standards.

There is an ongoing international debate about the relative balance between grants and loans. Australia is an active participant in this debate, including in discussions on increasing the grant element in portfolios of international financing institutions. Australia has also been an active supporter of the Heavily Indebted Poor Countries Initiative, providing substantial additional debt relief. However, discussions about the balance between grants and loans under the AIPRD program should not be driven by this debate. The Indonesian economy is soundly based, and Indonesia has demonstrated the capacity to use concessional loans effectively for its own economic and social development.

Senator NETTLE (New South Wales) (1.14 p.m.)—I want to point out that Indonesia has a public debt which is currently $130 billion. As a result of this loan being proposed, that will increase.

Question negatived.

Bill agreed to.


Third Reading

Senator ABETZ (Tasmania—Special Minister of State) (1.16 p.m.)—I move:

That these bills be now read a third time.

Question agreed to.

Bills read a third time.
tribunal with tenure demonstrated an early commitment that the tribunal should be seen not just to be a creature of the bureaucracy but an avenue of completely independent review. Great care went into ensuring that the tribunal was seen to be a body completely independent from the executive so that no bias could be attributed to its decisions and they would be respected by parties involved. The history of the Administrative Appeals Tribunal shows that parties, importantly including government, have respected its decisions and its standing. At the same time the tribunal was designed to be a relatively informal process so that it would remain accessible to anyone, regardless of their resources, who needed to appeal a decision to it.

The question we face in consideration of this bill is whether that important and delicate balance has in fact been maintained and to what extent it can be shaved away in terms of the tribunal’s judicial vestige and yet have the essential characteristics to maintain its actual and perceived independence. Labor had serious concerns about the original form of the bill, particularly with regard to the role and standing of the AAT president, and about the terms of appointment and tenure of the senior and presidential members, as they go directly to the question of independence from government. We are naturally happy that the government has taken up a number of Labor’s concerns, but I will come to those aspects later.

The amendments make a number of cosmetic changes to the act to update the language to plain English. This is particularly important for an act which creates a tribunal designed to be accessible to all. The bill also expands the alternative dispute resolution, or ADR, processes available to the tribunal and provides for the president to direct parties to these processes and that the parties are required to undergo ADR in good faith, though sanctions do not apply for failure to do so. As long as disputes are referred to ADR conscientiously and the process is carried out responsibly, there are benefits that can be obtained by resolving disputes in this way. Naturally the resolution of the dispute by the parties themselves is in fact preferable, but care must be taken to ensure that a difference in resources and power of the parties is not exacerbated by the referral to ADR. This is a concern that has been expressed by some organisations, including the National Welfare Rights Network, who argued in their submission to the Senate inquiry that the legislation should be amended to prescribe the factors that the AAT president should take into consideration when deciding to refer a matter to ADR, such as the power relationship between the parties, that it is optional and voluntary or that there are no factors that make it inappropriate. Whilst this is a concern, Labor is satisfied that good management by an independent and tenured president will ensure that it operates fairly.

Under these amendments the president will have responsibility for referring questions of law to the Federal Court and the Federal Court will be empowered to make findings of fact so that it can completely dispose of a matter without it returning to the tribunal for finalisation. This is a commonsense amendment which Labor supports. But again we note that it relies on the status and authority of the president. It is also beneficial in order to secure a working nexus between the AAT and the Federal Court that the AAT president is a judge of that court.

The powers of the AAT president will be increased by this bill. The existing sections 20 and 23 of the AAT act will be overhauled to remove restrictive provisions and to give the president broad powers to constitute the tribunal in relation to particular matters. The president will also have the power to authorise ordinary members to exercise powers that
can currently be exercised only by presidential or senior members. These changes by themselves are reasonable and are designed to give the additional tribunal flexibility, but we can have confidence to bestow increased powers on the president only if the position itself maintains the existing level of independence and status.

Of the 17 submissions made to the Senate inquiry into this bill, not a single one was in favour of this particular reform, while a number of the submissions expressed strong opposition to it. The balance that this parliament has always tried to achieve in this structure of the AAT is to provide an informal avenue of review for citizens aggrieved by government decisions while maintaining the tribunal’s status so that its decisions are perceived as being fair and just. Of course, these two aims can be conflicting ones.

During the creation of the AAT there was a strong emphasis on creating a judicial-style structure. The early composition of the AAT was heavy with appointments of members of the judiciary in order to immediately bestow upon the tribunal both standing and the assurance of independence. We should not take the fragility of the AAT’s independent status lightly. Labor believes that the government’s attempts to completely strip the president of any of the protections which are automatically bestowed on our courts simply go one step too far. We have seen from the circulated government amendments that it seems the government has now completely caved in under overwhelming pressure, including from its own members on the legal and constitutional committee.

This does not, however, erase the fact that the government’s original intention was part of the Howard government’s overall attempts to gradually shut down all of the avenues of review, dissent and disagreement. Applicants must have faith that their case will be heard judiciously, and government decision makers should be aware that their decisions can in fact be scrutinised by a body that is known to be independent and not held or captured by the government or a department. The existence of a strong and independent president provides a positive assurance that this is the case. A president with tenure and with the authority and experience of a Federal Court judge gives the tribunal immediate status above that of a mere internal departmental review body. While we could accept the need for some flexibility in the appointment of ordinary members, we were never going to compromise the standing of the tribunal by relinquishing the status of the AAT president by removing tenure from the position and the need for the position to be filled by a chapter 3 court judge.

Therefore, we can say that we are pleased that the government has backed down in this regard. While the strongest concerns during the Senate inquiry into this bill were with the downgrading of the status of the president, there were also strong concerns about the removal of tenured appointments for presidential and senior AAT members. While the howls of protest against these changes were not as loud as the voices against the downgrading of the status of the president, there were significant concerns raised about this issue. Labor shares many of the concerns about the complete abolition of tenured positions in the tribunal. After all, the tenured positions are the best way of ensuring independence and securing good appointments.

The Senate committee report noted that it has become accepted practice that new appointments to the tribunal have been made on a fixed term basis for over 15 years and that this amendment is consistent with long-standing practice. But, similarly, it could be argued that this simply highlights an existing deficiency in the existing act. The arguments that apply to the importance of tenure in
maintaining the status of the president can equally be applied to the importance of maintaining a number of tenured positions through the tribunal, although the symbolism is not as high and fearless standards can to some extent be set at the top by the president.

We understand the importance of flexibility in the appointment process, although Labor strongly believes that, at the very least, minimum terms must be maintained for appointments. The current proposal by the government, in our view, is seriously deficient. While the preservation of a number of tenured positions is preferable, the Senate committee recommended minimum term appointments of three years. Labor believes that five years would be preferable and we will be moving amendments to this effect in the committee stage. This will go some way to giving the AAT members the certainty they need and greater public confidence in their decision making.

This does not totally remove the possible perception that an AAT decision could be clouded by a member seeking reappointment, but Labor thinks it is a significant improvement. The government’s early proposals to reform administrative review in Australia failed because it is not willing to uphold the important safeguards existing in the AAT in its current form. In October 2003, when announcing the government’s intention to legislate current reforms, the Attorney-General signalled an ongoing commitment to the amalgamation of merit review tribunals into a single body. Labor rejected that bill, not on the basis of the amalgamation per se but because it did not make many of the changes and initiatives that would have improved the overall decision making capability of the tribunal. The bill undermined the importance of the AAT as a respected public institution, which it still is in our view. We think that the government got too arrogant and that it still maintains that arrogance when it comes to how it wants to reform institutions such as the AAT. When the government turns its mind to issues in social security, veterans’ affairs, tax, Comcare and so on, it seems to want to insulate itself from the ability to ensure that citizens have a fair appeals mechanism into those areas.

Turning to aspects of the Senate committee report in respect of this bill, Labor welcomes and strongly supports the unanimous recommendations. The committee made a number of sensible recommendations that would be a great improvement on the bill as it stands. Labor believes that the government bill went too far, as I think I have made plain, in undermining the status and standing of the AAT. We made no secret of our concerns about measures in the bill which would undermine the standing of the AAT president.

As I have said, we are glad that the government has come to take Labor’s view on this issue. The AAT president, particularly with the expanded powers proposed in the government’s current bill, needs to be in a position where there can be absolutely no question of political influence. This is essentially to maintain the status and integrity of the AAT. The ordinary applicant to the tribunal must be assured that their complaint about a government decision will be heard judiciously.

One of the AAT’s enduring strengths is that it has always been seen to be much more than an internal departmental review mechanism. Whilst it is not a court, and that is clearly recognised, it is seen to act totally independently. By removing the president’s tenure and status as a Federal Court judge, much of the AAT’s strength would have been undermined. The committee has unanimously recommended that this amendment be removed.
The committee made a number of other recommendations, all of which will make important improvements to the bill as it stands. The committee recommended that the act provide a minimum term for all new appointments to the AAT. This was an issue which was raised during hearings and indeed was a recommendation of the Administrative Review Council’s report, Better decisions, in 1995. The committee also recommended that the minimum term be three years. However, a number of submissions would have preferred a longer minimum period of between five and seven years. It was argued that a greater period would further insulate AAT members against any perception of bias or that decisions could be impugned because of a desire for reappointment. I understand that the government has rejected this recommendation. Labor stands behind that recommendation and will move amendments during the committee stage to give effect to that position.

The committee also recommended that further guidance be provided on the circumstances in which the president can remove an AAT member and reconstitute a tribunal in the interests of justice. We argued—for want of a better word—about what that term in fact meant. The Attorney-General’s Department informed the committee that this phrase was used to provide the president with balance so that they could then balance all the competing interests when making a decision. But it concluded that this phrase was too vague and that greater legislative direction should be given to the president when considering any factors that might warrant a member’s removal or the reconstitution of a tribunal. We do not believe, however, that the form of words in the government amendment is entirely adequate.

Finally, the committee recommended that the minister be required to consult with the AAT president before making assignments to divisions of the tribunal. This, combined with the recommendations that the AAT president remain a Federal Court judge, would add an extra layer of transparency and accountability. Again, we can say that we are pleased that the government has accepted the committee recommendation in this area.

We are left with a position where the government has significantly and substantially picked up the recommendations of the Senate Legal and Constitutional Legislation Committee. In this respect, you would normally expect the government to be congratulated on following the lead of the committee. However, it seems that the government in this instance acquiesced to the strong arguments that were put by the committee as to why these amendments should be made to ensure that the legislation allows the AAT the status and the ability to act independently and ensures that the public is confident in and recognises the transparency of its decision making. In that instance, I think the government failed to take the bill and move it through in a considered way.

What the government did do, I think, was try to push the envelope by tilting this too far—allowing the Senate Legal and Constitutional Legislation Committee, in some respects, as the gatekeeper, to try to bring back a bit of sense to the bill. The government should be on notice about the need to start at the beginning and work through bills with a proper intent, in my view, rather than rely on committees in that instance to try to add balance. Alternatively, you could take an adverse view and consider that the government was up to mischief and did want to downgrade the tribunal. I will leave it, I suspect, to the public to make that decision. We can certainly argue it, and argue it we will. The committee stage will give us an opportunity to propose additional amendments to the bill and to put our particular views.
Senator GREIG (Western Australia) (1.34 p.m.)—The Administrative Appeals Tribunal Amendment Bill 2004 [2005] makes a range of amendments to the procedures and composition of the Administrative Appeals Tribunal—or the AAT, as we know it. The AAT was established in 1976 to undertake a review of governmental decisions. It is a fundamental element of democracy that citizens can appeal the way in which a government decision adversely affects them. Given the size, power and resource disparity between the government and most citizens, it is very important that any process for reviewing government decisions is fair and accessible.

In establishing the AAT, the underlying objective was to create a system of administrative review that was efficient and accessible but fully focused on substantive rather than procedural issues and committed to ensuring adequate disclosure of relevant information and reasons for decisions. In other words, the aim was to create a system which was committed to accessibility and efficiency on the one hand and procedural fairness on the other. Efficiency was not to be achieved at the expense of procedural fairness.

The government argues that the changes in this bill will improve the capacity of the AAT to manage its workload and ensure that reviews are conducted as efficiently as possible. The focus of this bill is undeniably on efficiency. We Democrats support initiatives to make the AAT more efficient, but we are not advocates of efficiency at any cost. In striving to make the AAT more efficient, we must be very careful not to compromise the proper processes of the tribunal—in particular, those which serve to promote fairness, transparency and good decision making. In this respect, some of the changes proposed in the bill go too far.

The bill reforms the current regime in five key areas. Firstly, it makes a range of changes to the procedures of the AAT—for example, empowering the President of the AAT to give directions regarding the procedures. Tribunal members will be invested with new powers to determine the scope of a particular review by limiting questions of fact and the issues and evidence to be considered. The bill expands the range of alternative dispute resolution, ADR, processes available to the tribunal. In addition, the president will have the power to direct that a proceeding or a class of proceedings be referred to ADR. The president will not only have the power to direct that a particular matter be referred to ADR but be invested with a broader power to make general directions regarding certain categories of disputes. The bill also places a restriction on the use of evidence produced during ADR by preventing its subsequent use in court proceedings or arbitration other than with the express agreement of the parties concerned.

The second way in which the bill amends the current regime is by making changes to the composition of the AAT. Currently, when the tribunal constitutes more than one member, at least one of those members must be a presidential or senior member. The bill removes this requirement so that the tribunal could be entirely made up of ordinary members in any given case. In addition, the bill increases the powers of ordinary members by enabling the president to authorise ordinary members to exercise powers that can currently only be exercised by the president and/or senior members. Under the current regime, questions of law arising in proceedings before the AAT may be referred to the Federal Court. While the bill retains this mechanism, it inserts a new requirement for the president to consent to such a referral. The government indicates that this is intended to ensure that referrals are only made
in exceptional circumstances, which, it is hoped, will speed up AAT processes.

Finally, the bill changes the qualification requirements for the President of the AAT. Under the current regime, the president must be a judge of the Federal Court. However, the bill proposes to broaden this so that a current or former judge from any federal court, a former judge from any state or territory Supreme Court or a person who has been enrolled as a legal practitioner for at least five years may be appointed as president of the tribunal. In addition, the bill will remove tenured appointments that currently apply to presidential members who are judges. All future appointments to the AAT will be for a fixed term.

While the Democrats welcome some of these changes, we do have serious concerns about others. For example, the fact that there will no longer be any requirement for the inclusion of a presidential or senior member when the tribunal is made up of multiple members means that it will be possible for an entire panel to be made up of members who have no legal qualifications. Given the often complex legal issues which can arise in AAT proceedings, coupled with the new prohibition on referring questions of law to the Federal Court without the consent of the president, this change is concerning. The requirement for the president to consent to referrals of questions of law to the Federal Court also creates the potential for a conflict of interest if the president is required to consent to the referral of one of his or her own decisions.

There are also very serious issues associated with the relaxing of the qualification requirements for the President of the AAT. The new provisions create the potential for seriously underqualified persons to be appointed as president. In fact, they would permit a person who has been enrolled as a legal practitioner for only five years to be appointed as president. Considering the wide range of powers conferred on the President of the AAT, not only by this bill but also by other pieces of legislation, we believe that it becomes clear that the qualification requirements should be stringent and specific.

Let us not forget that the president may authorise the use of telecommunications interception warrants and the incommunicado detention of ordinary Australians under the ASIO Act. In other words, this is a person who is vested with the power to authorise significant violations of privacy and deprive individuals of their liberty without trial or charge. These are not insignificant powers and they should not be vested in someone who has been enrolled as a legal practitioner for only five years.

Of course, this issue was canvassed at length by the Senate Legal and Constitutional Legislation Committee, which inquired comprehensively into the bill and recommended that the requirement for the president to be a Federal Court judge be retained. I take this opportunity to commend the committee on its thoughtful and comprehensive report on the bill and, in particular, on its recommendations to improve the bill. The evidence provided to the committee regarding the need to retain the current qualification requirements for the President of the AAT was compelling. Witnesses provided two primary reasons as to why the AAT president should continue to be a Federal Court judge.

The first of these reasons was that a Federal Court judge would have the appropriate skills and experience to do the job properly. As the Public Interest Advocacy Centre argued:

The President’s broad powers and responsibilities necessitate that the incumbent be a person of extensive legal and management experience. A Fed-
eral Court Judge is the ideal candidate as they have considerable experience as practitioners and adjudicators, and in managing proceedings.

The second reason advanced for requiring the President of the AAT to be a Federal Court judge was that this would ensure that the president was, and was perceived to be, independent of the government. Mr Graham McDonald, a deputy president member of the AAT, argued:

It is the independence guaranteed by having a Federal Court judge appointed which gives citizens lodging appeals against decisions of government ministers, departmental officers and government instrumentalities the confidence that their matters will be dealt with in accordance with the highest possible quasi-judicial standards.

This is of particular importance where the decision being reviewed always involves the Government as a party.

For both of these reasons, we Democrats strongly support the recommendation of the committee that the requirement for the President of the AAT to be a Federal Court judge be retained.

While we largely support the other recommendations of the committee, as we pointed out in our additional comments, we would go further in seeking to address some of the problems with the bill. For example, the Democrats took a different view from the committee on the issue of tenured appointments to the AAT. The bill proposes to limit the term of appointments for all AAT members to a maximum of seven years, with eligibility for reappointment. This will have the effect of removing the possibility for tenured appointments. Although it has been government policy over the past 15 years not to make tenured appointments to the AAT, we Democrats firmly believe that this option should remain in the legislation. This view was shared by the Law Council of Australia, the Law Society of New South Wales and the South Brisbane Immigration and Community Service, all of which argued that the removal of tenured appointments would be likely to compromise the independence of the AAT and inevitably result in a drop in public confidence in its processes.

The committee recommended that the bill be amended to specify a minimum term of appointment of three years. I understand that the opposition proposes to take this one step further by moving an amendment to specify a minimum term of five years. While the Democrats will be supporting that amendment, we believe that the option to make tenured appointments should also be retained. Retaining this option will place no obligation on the government of the day to actually make tenured appointments. Indeed, it would be entirely possible for the government to maintain its practice of making only fixed term appointments. Nevertheless, we believe there is merit in retaining both options and we will move an amendment to ensure that tenured appointments are available in the future.

Another area in which the Democrats advocate amendments beyond those recommended by the committee is in relation to the constitution of multimember panels. In particular, we do not believe that the requirement for multimember tribunals to include at least one presidential member should be removed from the act. The National Welfare Rights Network noted:

... the practice of the Tribunal is to constitute multi-member Tribunals in cases involving significant questions of law, complex issues of fact and detailed consideration of scientific or medical evidence.

Similarly, the Law Council of Australia argued that, on account of the legal complexities associated with multimember tribunal hearings, it is vital that at least one member of the tribunal be legally qualified. We Democrats concur and we will be moving an
amendment to oppose the removal of that requirement from the bill. In summary, this bill makes a range of improvements to the legislation governing the Administrative Appeals Tribunal, and the Democrats welcome those changes. We are, however, concerned about a number of issues associated with the bill and intend to canvass those issues further as debate on the bill progresses.

Senator MARK BISHOP (Western Australia) (1.46 p.m.)—The Administrative Appeals Tribunal Amendment Bill 2004 [2005] is relatively uncontroversial. This is very unlike the violent change the government sought to make through a similar bill some years ago. That bill sought to destroy the independence of the Administrative Appeals Tribunal by making each tribunal financially dependent on the relevant department. As well, it sought to introduce more accountability by insisting on the introduction of performance indicators. It is good to be able to say that that flush of new managerialism seems to have abated. This was due in large part to public objection to the government’s motives, which at that time were plain. Those motives were generated by government frustration at AAT decisions which contradicted government policy. But, instead of changing policy and the law, the government sought to change the umpire. Veterans, for one, saw that and rightly objected to some of the changes that were mooted at that time. The independence of both the Veterans Review Board and the AAT from government control was and remains paramount. In contrast, this bill only seeks to make a number of procedural changes to streamline the operations of the tribunal. None of these relate to that earlier doctrinaire approach. In the interests of time, I will not repeat those mooted changes, but I should mention the recommendations of the report by the Senate Legal and Constitutional Legislation Committee.

The committee’s first recommendation is that the appointment of a president continues to be made from the ranks of Federal Court judges. The reason for this is more than just status. The AAT by its very nature is much more than an administrative body. It deals with the law, not administration—despite its title. The position of president is not just a chief executive officer or a manager; the president presides over a legal entity making legally-binding decisions about matters where decisions made under the law are in dispute. The AAT’s role is to adjudicate on the application of the law. Its decisions are appealable to the Federal Court. Given the complexity of the AAT’s own procedures, as instanced in this bill, we believe that nothing less than a Federal Court judge is appropriate.

In a similar vein, the committee recommended that a minimum term of appointment of three years be introduced. Again, we support that recommendation and, hence, the amendment that will be moved. One element is paramount in the law, and that is certainty. Appointments such as these must be above the political ruck. There must be both certainty and continuity. There must be no opportunities for political patronage just to suit the transient interests of the government of the day. The other main recommendation was for the mandatory consultation of the president in the allocation of tribunal members by the minister. If nothing else, one would regard this as a simple courtesy. But, as we all know, ministers are not always renowned for this quality. It is better provided for in the legislation.

This bill provides an opportunity to express a few other views on administrative law. My particular interest is in the veterans jurisdiction. The Senate will appreciate that the veterans jurisdiction is quite complex. Indeed, some regard it as cumbersome. The efficient working of review processes in that
context is very important. As in other jurisdictions, there has been an intensification of review of decisions in more recent years. As well as having access to the AAT, veterans have their own tribunal in the Veterans Review Board. Many outsiders see this as an unnecessary duplication of review. Occasionally governments have been daring enough to try to abolish it or wrap it into the AAT. In fact, the Howard government tried just this, in a way, with the new military compensation legislation last year. It sought to exclude serving personnel from its purview. Needless to say, the ex-service community objected. The end result was that all appeals against unsuccessful military compensation claims can now go to the VRB as well as the AAT. The process is now the same for veterans, as is set out in the Veterans’ Entitlements Act. There is double access to review and everyone is treated in the same fashion.

It is said by critics that the availability of an extra layer of review not only is costly but also adds time. It is also said that it unwisely creates or maintains an appeals culture. That may be true to a limited extent, though that overlooks an intrinsic feature of veterans law—that is, onus of proof, to which I will return in a moment. Needless to say, the ex-service community objected. The end result was that all appeals against unsuccessful military compensation claims can now go to the VRB as well as the AAT. The process is now the same for veterans, as is set out in the Veterans’ Entitlements Act. There is double access to review and everyone is treated in the same fashion.

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Certainly the procedures are non-threatening, and I know that members always seek to facilitate cases rather than deal only with the facts as presented. This is consistent with the requirement of the Veterans’ Entitlement Act that the department carry the onus of proof, not the claimant. This is a significant difference from other jurisdictions and tribunals. This was a matter considered by the Senate Finance and Public Administration Legislation Committee in its inquiry into administrative review in the veterans jurisdiction in 2003.

This reversed onus of proof excuses veterans from fully proving their claims. It is up to the department to investigate the claim and to find the evidence to support it. The reversed onus of proof means that the department must disprove all claims—beyond reasonable doubt, in many cases. Hence the problem of the quality of evidence presented. Associated with this is the problem of records which are of variable quality. This means ultimately that administrative review in this jurisdiction rests largely on the quality of evidence as presented. Hence the entire review process turns, in most cases, on new evidence—and the better the advocacy, the better the chances of successful review. Good advocates know the ropes, but unfortunately they come at a price—at the AAT at least.

Affordability remains a major issue for real justice in administrative law. Many simply cannot manage the complexity of the law or the processes. This is despite the aims that administrative law as dispensed by the AAT should be accessible and inexpensive. Veterans are very fortunate for a couple of other reasons. One is that ex-service organisations have a key role in looking after their mates. The assistance they provide in helping people through the review process is very substantial. This has been recognised by government through the provision of funding for training of ex-service advocates. It also provides some modest resources for administrative support, including computers, software and staff. The other reason is that veterans are entitled to non-means tested legal aid.
For those people who are critical of these benefits, it should be said that these are traditional policies based on commitments made long ago when troops were sent overseas to war. It is an entitlement from a grateful country to those who chose to serve. Of course, nothing has changed, and both sides of this chamber abide by that commitment. Hence the support we gave on this side to the amendment to the Military Rehabilitation and Compensation Bill providing for access to the VRB.

To return to the bill for a moment, the introduction of new evidence through the review process has always been controversial. On one side the argument is that reviews should be restricted to the claim and the decision made in the first instance. New evidence, the critics say, should see the case returned to the primary claim decision maker. Yet, as I have set out, obtaining evidence is probably the greatest problem in most jurisdictions. Quite often, it is not available in the first instance. Often the shortcoming cannot be realised until the hearing has been conducted and all the facts are on the table. Thus we have elaborate conciliation processes prior to hearing where these matters are sorted out.

In this bill there are two new provisions which will assist this further. The first is the new capacity of the president to direct an alternative dispute resolution process—that is, the parties are sent off to negotiate an outcome. Inevitably, this will centre on the evidence. Rather this than the cost of a full hearing in which evidence might still be deficient. Further, a new provision is made requiring the engagement in this process of the primary decision maker. This seems quite sensible, although the reservations expressed by the Parliamentary Library on the practicality of this should be noted. With respect to the assertion that new evidence should be returned to the primary decision maker, the practicality is that the tribunal deal with it. This pragmatic attitude has now also been applied through this bill to the Federal Court. Instead of remitting a case to the AAT, the Federal Court, through this bill, will also be able to determine or realise a decision. Again, this is a practical move to streamline reviews in everyone’s interests.

I venture these views so that they are on the record. Too often, the importance of administrative review is overlooked or not even understood. As we all know from representations made to us, primary decisions can be fraught with error. In many cases, such as migration, it involves the personal future of applicants. Human rights are therefore paramount in this context. In other cases, such as social security, it is simply about ensuring that claims for entitlement are not wrongfully denied. As I have said about veterans, in those cases it is about honouring past commitments to those who served overseas in the service of our nation. For ex-service people, like social security claimants, it is about ensuring that entitlements are properly and fairly determined. In large part, I believe we can have some certainty, particularly in this jurisdiction, that the system is working effectively. There are, however, always exceptions. They occur sometimes through evidentiary shortcomings. Sometimes they flow from a lack of clarity in the law. Despite expressed intentions, they often happen because the claimant does not have the skills or the means to properly represent and argue their perspective. We support this bill, subject to the second reading amendment to be moved later by my colleagues.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (1.58 p.m.)—There remain only a few moments before question time, but I will commence the reply so that the debate is concluded. There are a number of reforms in the Administrative Appeals Tribunal Amendment Bill
2004 [2005] which are the result of long-standing consultation. As well, I foreshadow amendments to the bill in the committee stage, which stem from the Senate Legal and Constitutional Legislation Committee report. We have accepted some of those recommendations, and I will be dealing with that in more detail during the committee stage. I understand that there will also be some Democrats amendments to deal with as well. This is a very important bill, one which has been a long time in coming, and of course it is essential that we pass it this week. I thank speakers for the contribution they have made to the debate, and I will deal with a number of issues when the debate resumes on this matter.

Debate interrupted.

QUESTIONS WITHOUT NOTICE

Skills Shortage

Senator GEORGE CAMPBELL (2.00 p.m.)—My question is to Senator Vanstone, representing the Minister for Vocational and Technical Education. Is the minister aware that a detailed Senate report into skills shortages entitled Bridging the skills divide was tabled in the Senate on 6 November 2003? Is the minister also aware that this report contains over 50 recommendations, the vast majority of which were supported by government senators on the committee and could form a valuable blueprint for fighting the current skills crisis? Can the minister explain why, nearly 18 months later, the government has still not managed to even formally respond to the report, let alone put this constructive blueprint into action?

Senator VANSTONE—I thank the senator for his question. Yes, I am aware of the report to which he refers, and it may well be the case that the government has not responded. I note in the latter part of his question he says, ‘let alone put anything into action,’ which creates the impression, not necessarily intentionally on the senator’s behalf, that the government is not in fact doing anything about skills shortages, in particular the domestic supply for skills shortages, which of course brings you to the training system. I say first up that I will make an inquiry of the minister as to when we might expect a formal government response. I will also ask him, in the context of that, to indicate what the government has been doing in the meantime. I am sure the minister does understand, from his long history with the union movement and their arguments with governments, that governments do not simply do things because a report recommends something and they certainly do not stop doing things because there is a report—a lot keeps happening in the meantime.

You would understand, Senator, the very strong commitment the coalition government has to a training system for vocational education. You would understand that in the election the government announced $1.06 billion in new funding over three years for vocational education and training. That is, as I am advised, one of the most significant boosts to vocational training ever undertaken by any government. The government has increased overall VET funding by 35.5 per cent between 1997-98 and 2003-04. In fact, if we look at the increase since the 1995-96 budget, the total Australian government contribution to VET has increased by 57.5 per cent in real terms. As I am advised, that is not a nominal dollar increase; that is real bucks in the pocket, in either today’s dollars or 1995 dollars. In any event, in real terms, in the same dollars, it is a 57.5 per cent—nearly 60 per cent—increase.

This year, the Australian government will spend a record $2.1 billion on vocational education and training. That includes over $1 billion to the states and territories under the Vocational Education and Training Funding Act to support the states and territories in
their training systems. The Australian government’s contribution to states and territories under the VET Funding Act has grown from nearly $800 million—$778 million, roughly—under Labor to $1.15 billion under the coalition government in 2005, a very substantial increase of some 48 per cent. That one is not in real terms; it is a 22 per cent increase in real terms.

I have made this point here before: in 2004-05 most of the states and territories cut their training. All states and territories rejected the Australian government’s offer for the proposed new agreement of $3.6 billion—a 12.5 per cent increase. If they had accepted that offer, that offer would have created up to 71,000 new training places. They would be in addition to the extra 15,750 places for aged care training announced in the 2004-05 budget. The government’s offer of a further six months rollover of the current ANTA agreement to 30 June this year, when ANTA’s functions will be transferred to the Department of Education, Science and Training, has been accepted by all the states and territories. The minister has also given them a guarantee of the level of Australian government funding to 2005. That will provide certainty in the current academic year for vocational education and training.

Senator GEORGE CAMPBELL—I ask a supplementary question, Mr President. As the minister would be well aware, in this area it is not what you spend the dollar on, it is how you spend the dollar. Obviously, with the current skills crisis we have, you have not spent the dollars wisely. I ask the minister: when she seeks a response to the committee’s report from the appropriate minister in the other house, could she also ask the minister to indicate why the government did not implement all the recommendations of that report, given that they had received broad support from all members of the committee?

Senator VANSTONE—Of course I will I do that. The senator gives me the opportunity to point out that 38 per cent of new apprentices are in the trades and related occupations, covering trades such as carpenters, plumbers and electricians, while those occupations make up only 13 per cent of the work force. So 38 per cent of new apprenticeships have been in an area that comprises 13 per cent of the work force. For the 12 months to 30 September, there were 68,500 new apprenticeship commencements—an increase of 19 per cent on the previous year. What does that tell you, Senator? It tells you a well-managed economy runs well; there is increased demand and growing demand for jobs. This is in stark contrast to the previous time of a Labor government. This is in stark contrast to when you had a million people who could not get a job.

Telecommunications

Senator EGGLESTON (2.07 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 the Howard government is helping improve telecommunications in rural and remote areas of Australia? Is the minister aware of any alternative policies?

Senator COONAN—Thank you to Senator Eggleston for the very timely question. As senators on this side of the chamber would be aware, this government is vitally interested in telecommunications services for rural, regional and remote Australians, and that is because we understand the potential these technologies have to change the way people live and work and to bring them closer to information and services than ever before. In our remote communities, families can access medical specialists half a conti-
nent away, students can access virtual classrooms and farmers can monitor weather and market information that is vital to their businesses.

Once communities have access to this technology, there is no going back, and that is why the government has rolled out a range of programs to help rural, regional and remote communities access high-quality telecommunications. One great example is the Telecommunications Action Plan for Remote Aboriginal Communities, known as TAPRIC. The program was given $8.3 million over three years to specifically assist remote Indigenous communities, providing community phones, culturally appropriate internet content and an internet access program. The program is subsidising the cost of equipment for remote Indigenous communities who want to set up small public internet access centres with PCs, printers, cameras and power equipment. Some 135 communities have been assisted to date. In conjunction with the government’s Higher Bandwidth Incentive Scheme, or HiBIS, a further 40 communities are expected to receive equipment and funding to allow high-speed internet access. The program has addressed the need for improved take-up and effective use of internet and broadband as well as the need to improve support for public internet facilities. It is certainly proving very popular with remote Indigenous communities.

Of course, it is not just Indigenous communities that are benefiting from HiBIS: the Howard government’s $107.8 million subsidy HiBIS scheme is improving access to broadband services at reasonable prices in regional and rural areas. Already 259 communities have access to ADSL, thanks to HiBIS, and another 260 communities are to shortly join them because of these subsidies. This is making a real and substantial difference to the lives of regional Australians.

The senator asked if I was aware of any alternative policies. As we all know, at the moment alternative policies are pretty thin on the ground. Mr Beazley has already signalled he is going to be pursuing his small target strategy again, but the government’s support for improved telecommunications in remote communities, through TAPRIC and HiBIS, has received praise from an unlikely source: someone who was quoted in this morning’s Sydney Morning Herald as calling it a ‘terrific initiative’. Who is that, you might ask. It is none other than Senator Kim Carr. It is gratifying to see the ALP recognising the good work this government has done to improve telecommunications. Senator Carr has correctly identified one of the programs that are delivering real benefits to rural and regional Australians, and there are many more of them. We have spent more than a billion improving services, a lot of it spent in rural and regional Australia, and we will continue to take the tough decisions that will deliver better communications for all Australians, irrespective of where they live.

Skills Shortage

Senator WONG (2.11 p.m.)—My question is to Senator Vanstone, representing the Minister for Education, Science and Training. Is the minister aware of the report of the House of Representatives Standing Committee on Employment, Workplace Relations and Workforce Participation tabled yesterday entitled Working for Australia’s future: increasing participation in the workforce, which again confirms the skills shortage which has occurred under the Howard government? Is the minister also aware of the committee’s recommendation that the Howard government must do more to address the skills shortage and maximise the uptake of traditional apprenticeships? Minister, isn’t it the case that most of the growth in new apprenticeships is in areas where there is no skills shortage and that the share of tradi-

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tional trade new apprenticeships has halved since 1996? What possible answer does the Howard government have for employers and young people in Geelong, where the Gordon Institute of TAFE has 12 people waiting to get into automechanics and 52 people waiting to get into panel beating whilst there are shortages in the automotive trades?

Senator VANSTONE—I thank the senator for the question. No, I am not aware of the report that was tabled yesterday in the House of Representatives, which in my lighter moments I regard as not being called the lower house without good reason. But since you have drawn my attention to it—

Opposition senators interjecting—

Senator VANSTONE—Just in a lighter moment. You should be complimented by that. I am complimenting us collectively, despite our differences—

Senator Sherry—Which side are you referring to?

Senator VANSTONE—Us collectively—being properly referred to as the upper house.

Opposition senators interjecting—

Senator VANSTONE—Such a lack of levity and goodwill on the other side—I don’t know! Senator Wong, I will make a point of asking the minister about the report and the recommendations made therein. I refer you back to the answers that I have already given. I do not think it is worth taking up the time in the Senate repeating those. You were here and heard them and, if you are unsure about what was said, you can see that in the Hansard.

As to the investment this government is making in training, it is a case that when you have an economy that is running well, which is not something that your colleagues would have had very much experience of, then you have growth in the business sector, growth in the building sector and of course you need more people coming on line. It is not always the case that everybody plans for that as well as they could. I, for one, do not accept that there should be a completely Canberra centrally planned economy with some bureaucrats in Woden or wherever deciding how many plumbers or electricians should go into apprenticeships. That does not actually have a ring of commonsense about it.

Senator Sherry interjecting—

Senator VANSTONE—I am happy to keep answering Senator Wong but Senator Sherry seems to have something a bit tight which is causing some anxiousness to him and perhaps encouraging him to go and have another dinner somewhere.

The PRESIDENT—I was just about to point out to Senator Sherry that continuing to shout across the chamber is disorderly.

Senator VANSTONE—Senator Wong, it is not the case that I agree—and I do not think the minister does either—with a centrally planned economy deciding who should have which apprentices, but clearly we are spending a tremendous amount of money on this. As to the detail of your question that I cannot answer for you at the moment which related to traditional trades and the percentage of apprenticeships, I will get an answer to that. It will include those people who have gone into new traineeships associated with traditional trades, because you can get a very misleading impression if you just look at one part of a question. I will get you a full answer from the minister.

Senator WONG—Mr President, I ask a supplementary question. I thank the minister for her indication that she intends to take the question on notice. We would certainly appreciate an answer as to why the share of traditional trade new apprenticeships has halved since this government came to power. Could she also advise whether the govern-
ment intends to take the advice of its own backbenchers and overhaul the New Apprenticeships scheme so it is targeted to areas of skills shortage like the traditional trades? Does the minister agree with the member for Deakin, who, when tabling the report, noted that in 2020 there will be half a million jobs in Australia with no-one to fill them? Isn’t Mr Barresi right that the skills shortage is set to worsen dramatically under your government? How long is the current imported skills quick fix going to continue? How many workers will the Howard government import to fill these 500,000 jobs?

Senator VANSTONE—Thank you very much. There are two parts to that question. One relates to the remarks of Mr Barresi, the member for Deakin. I will have a close look at Mr Barresi’s remarks. Of course, if government walked away today and everything stayed as it is today, in 2020 we would all be in a terrible pickle. It would not only be in the skills area; it would be in a whole lot of areas. If the remark was simply that, that is something I would agree with. But let me have a look at the detail of what he said or ask the minister to have a look at the detail of what he said and come back to you.

The other aspect of your supplementary question goes to the importation of labour. We have an immigration system that is universally regarded as second to none. It is very much focused on skills. Some people come in permanently. We have the opportunity for people to come in on shorter term visas for, say, four years, where you might want to build a very technical plant and will not require those technical skills after you have built one because you do not build a plant every few years. Of course, we also have temporary people coming to Australia.

(Time expired)
have agreed to extend and better resource the international global monitoring control and surveillance network into illegal fishing. We are going to establish a list of vessels permitted to fish on the high seas. Some people might say, ‘So what?’ about that. There is a list of all vessels allowed to carry cargo and oil on the high seas, but there has never been one for fishing vessels. That has enabled illegal fishing to expand.

We are also going to do work to benchmark and highlight the performance of flag states and port states with a view to naming and shaming flags of convenience so that the incident which happened in the Southern Ocean last week, where an Australian patrol vessel was unable to deal with vessels that were fishing not illegally but in an unreported way in areas that were closed to fishing, will not be repeated. As well, as a result of this meeting I will be getting the Attorney-General to advise me on whether we can actually, as a nation and with like-minded nations, take legal action against flag states who do not honour their international obligations.

I was delighted whilst in Paris to meet with two French ministers, Mme Girardin, the Minister for Overseas France, and M. Bussereau, the minister for maritime and fisheries matters. I am delighted to say that the French are very keen to assist us, not only in the Southern Ocean as they are now doing but also, importantly, in the Pacific Ocean, where we share many interests with the French.

I then went to Rome to the FAO ministerial meeting. I had the very great honour to chair this ministerial council. Over 121 nations were present. More than half of them were represented by ministers, and it was really an honour for me to be able to chair that meeting. We presented our national plan of action and we dealt with and joined in completing a ministerial declaration on illegal, unreported and unregulated fishing. I table that for the benefit of the Senate.

I am asked by Senator Scullion whether I am aware of any alternative policies. It is very easy for me to answer this because the answer is no. Before the election the Labor Party actually had five different policies on border control and illegal fishing. But since the election they have no policies at all. The Labor Party is a policy-free zone. Their leader has indicated they are not even going to look at any new policies. It is with some regret that the Labor Party has withdrawn from policy debate on border control and fisheries control. (Time expired)

**Taxation: Family Payments**

**Senator JACINTA COLLINS** (2.22 p.m.)—My question is to Senator Patterson, the Minister for Family and Community Services. Is the minister aware that the House of Representatives Standing Committee on Employment, Workplace Relations and Workforce Participation report Working for Australia’s future: Increasing participation in the workforce unanimously recommended:

…the Australian government review … effective marginal tax rates … to maximise incentives to move from income support payments to increased participation in paid work.

Is the minister aware that a single-income minimum wage earner with children under five would be not one cent better off from earning an extra dollar, since 30c would go to the tax man and 70c would come off the parenting allowance? In light of the unanimous finding of this committee, does the minister agree that the government has not done enough to reduce the disincentive to work from very high effective marginal tax rates?

**Senator PATTERSON**—I thank Senator Collins for her question because it gives me an opportunity to compare our record on ef-
fective marginal tax rates against Labor’s record. The Australian government significantly reduced effective marginal tax rates for many families when it introduced A New Tax System. In the 2004-05 budget, income taxes were cut by $14.7 billion. As a result of that, more than 80 per cent of taxpayers will pay no more than a top marginal tax rate of 30c in the dollar over the next four years.

The government also reduced the first income test taper rate. This is one of the issues that affects assistance to families when the person returns to work. They are substituting taxpayers’ assistance for dollars that they earn for themselves. This is not a tax but is replacing welfare dollars with dollars earned. In order to reduce the effective marginal tax rates we reduced the first income test taper rate for the maximum rate of FTBA from 30c in the dollar to 20c, and the FTBB income test taper from 30c in the dollar to 20c from 1 July 2004. This builds on the reduction in the withdrawal rate of maximum family allowance from 50c in the dollar to 30c, undertaken in 2000. In the OECD’s 2004 economic survey of Australian states, with the May 2004 budget also incorporating a reduction in the withdrawal rates of the family tax benefits and increased family assistance, EMTRs for families on average earnings have fallen to 51.5 per cent. Compare that with what they were when Labor was in government: families faced an average EMTR of 84c in the dollar.

There will always be a withdrawal rate when you have assistance. The only way you can eliminate a withdrawal rate is to not have any assistance. Improving the taper rates reduces the EMTR, but there are more Australian families facing EMTRs because more families have jobs. EMTRs higher than the marginal tax rates arise out of the interaction, as I said, between the tax and social security system components.

The OECD report *Taxing wages* shows that, after income tax and cash benefits are taken into account, working Australian families have the highest disposable incomes in the OECD. This is in part due to the higher level of real wages growth that Australian workers have enjoyed since 1996, tax cuts provided in 2000, 2003 and 2004—unlike Labor’s l-a-w tax cuts that never came into being; they lied to the Australian public—and increasing family payments.

This government has a proud record of supporting families. The base rate of family assistance has increased from $22.70 per fortnight in 1996 to $66.50 per fortnight. We have also introduced the maternity payment for every woman having a child. As I have indicated before, we have seen the average effective marginal tax rates faced by families dropping significantly from 84c in the dollar under Labor to 51.5c under us.

**Senator JACINTA COLLINS**—Mr President, I ask a supplementary question. Is the minister aware that the chair of the committee, Liberal MP Phil Barresi, argues that reducing the still far too high effective marginal tax rates, not cutting people’s wages, is the best way to encourage people to get a job or to earn more money? Minister, will the Howard government finally adequately deal with burden on Australian families of high EMTRs in its 10th budget?

**Senator PATTERSON**—Labor’s record for families when they were in government was high interest rates, high inflation and high effective marginal tax rates—families faced on average an effective marginal tax rate of 84c in the dollar. Labor’s record in assisting families is appalling. We are now seeing families getting $7,500 on average in family assistance—$2,500 before we take into account the child-care tax rebate assistance for child care. We have seen reduced interest rates, reduced unemployment and
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reduced inflation. Labor have no record. They do not have a leg to stand on when it comes to their record on families. They neglected families in their policies in the last election and the Australian public knew and did not vote them in.

Health: Rural Services

Senator ALLISON (2.28 p.m.)—My question is to the Minister representing the Minister for Health and Ageing. Does the government have any concern about the serious shortage of obstetricians, both specialists and GPs, providing services to rural women? Will you admit that the lack of government action on professional indemnity and the failure to foster midwife practitioners has led to a disastrous situation in access to birthing and maternity care in rural Australia? Minister, the state government in Victoria announced today an extra $2.5 million for improving maternity programs. Is this enough, in your view? What will your government do to help fix the problem?

Senator PATTERSON—Senator Allison asked me particularly about specialist services for obstetrics and gynaecology and I have a long list here, which I will endeavour to get through in the time. I am sure you will ask me a supplementary, Senator Allison, if I do not get through it. The government has put in place a range of initiatives to support specialist services like obstetrics in rural areas. One of the long-term measures that Dr Wooldridge brought in was the clinical schools of rural health and university departments of rural health which will make a huge difference over the very long term in the training of young people in rural areas and encouraging them to stay there.

Under the Medical Specialist Outreach Assistance Program, the government is providing funding to specialists who deliver outreach services. Nationally under this program 120 obstetrics and gynaecology outreach services have been provided in rural and remote areas such as Robinvale and Lakes Entrance in Victoria, Menzies in Western Australia and Broken Hill in New South Wales.

Funding has also been made available to provide more specialist training in rural areas through the Advanced Specialist Training Posts in Rural Areas Program. This program has funded training for over 250 trainees in some 33 rural locations, and several training posts in obstetrics and gynaecology are supported in rural Victoria, Queensland and Western Australia. The Howard government has also provided $6.3 million for a new support scheme for rural specialists. The goal of the program is to assist specialists who are practising in regional, rural and remote areas to upgrade their skills and remain up to date.

In addition to specialist training, procedural GPs are important providers of obstetrics in rural areas. The Training for Rural and Remote Procedural GPs Program, announced as part of the Strengthening Medicare package, provides financial support of up to $15,000 per GP per financial year for rural and remote procedural GPs to undertake relevant training, upskilling or skills maintenance activities. General practices participating in PIP, the Practice Incentive Program, in rural and remote areas are also eligible to receive an incentive payment of up to $5,000 per year per GP to support them to provide procedural services, including obstetrics.

One of the other issues that was affecting the provision of obstetric services at both a GP level and a specialist level was medical indemnity, and the government’s medical indemnity arrangements have brought stability and affordability back to the Australian medical indemnity market. This is better for all doctors but particularly for those in rural areas.
With input from the Rural Doctors Association of Australia, special arrangements have been made under the Premium Support Scheme to provide extra financial assistance to rural procedural GPs, including those who undertake obstetric procedures, in recognition of the important role they play in our rural and remote communities. These arrangements provide a rural procedural GP with financial assistance that covers 75 per cent of the difference between their medical indemnity premium and that of their non-procedural colleagues who practise in the same location, earn the same level of income and are insured by the same insurer. These arrangements for rural procedural GPs are intended to address the imbalance between the additional premium these GPs pay and the additional income they receive from undertaking their procedural work.

Obstetricians in rural and remote areas also benefit from the Premium Support Scheme. Also, rural obstetricians who elected to participate in the former Medical Indemnity Subsidy Scheme are guaranteed the same level of support or better under the Premium Support Scheme, thanks to the 7.5 per cent threshold.

So these are a range of measures, beginning with the training of young GPs. There is the increase in the number of places to 250. We asked that those young people undertaking that training at an undergraduate level, either as a specialist or as a GP, be prepared to work in an area of work force shortage. Those measures—including increasing the number of medical students, higher assistance for people undertaking obstetrics, more assistance for procedural GPs undertaking obstetrics and gynaecology, and improving the access to and affordability of liability insurance—have all gone to improving access. (Time expired)

Senator ALLISON—Mr President, I ask a supplementary question. I thank the minister for her answer and for the efforts so far, but can she guarantee that pregnant women in Victoria, for instance, will not continue to be forced to drive hundreds of kilometres to give birth in Melbourne hospitals, sometimes uprooting their families in doing so? How soon can she guarantee that that will not be the case? Why is it that 75 per cent of GPs who undertake obstetric training will never deliver babies and 53 per cent of the current specialist registrars also never intend to commence obstetric practice? The minister obviously had no time to answer my question about midwives. Isn’t it the case that 60 per cent of births involve no complications and can be safely performed by midwives? Can the minister explain why the federal government has shown no leadership whatsoever in this area of midwifery services?

Senator PATTERSON—I think I outlined in detail a large number of measures that we have undertaken to improve obstetric services to women in rural and remote areas. There will be some situations where women will have to move to a city area for treatment. For example, a pregnant woman who has diabetes might not be able to receive the services that she requires in the country areas; in order for her to have specialist treatment, she may have to come to the city. It would be much better if that were not the case, but we do have a tyranny of distance in a country of 20 million people in trying to provide first-class services—world-class services—in every place where those people live. There will be times when people will have to travel. What we are trying to do is reduce the chance of that happening.

With regard to midwives, with all due respect, Senator Allison, the Commonwealth cannot continue to take on areas of responsibility where the states have failed. The states have responsibility for training midwives—
the states have responsibility for dealing with that issue. Every time the states fail, there is a cry for the Commonwealth to step in. We are doing what we should be doing in the area of obstetrics. (Time expired)

Minister for Human Services

Senator CHRIS EVANS (2.35 p.m.)—My question is also to the Minister for Family and Community Services and the Minister representing the Minister for Human Services. Can the minister confirm that her colleague Mr Hockey has sought legal advice to ascertain precisely what powers are available to him as Minister for Human Services? Isn’t it the case that Mr Hockey and his department are being increasingly frustrated by Minister Patterson’s refusal to cede powers that would assist the new department to function as the Prime Minister intended when announcing his new ministerial arrangements? Hasn’t this caused Minister Hockey to make the extraordinary threat to particular agencies to withhold funds if they do not let him exercise what he sees as his authority?

Senator PATTERSON—This explains why Labor are where they are, because what they do is rely on newspaper stories and take them as fact. That is the level of the performance of this party on the other side that pretend to want to be in government. They fail to deliver policies. They fail to develop policies. All they can do is read an article in the newspaper and believe that it is the truth.

The arrangements and the changes to the machinery of government are important because we are delivering more services to families through Health, through the Medicare safety net and other measures; more assistance to older people through the utilities measure and through the payment to self-funded retirees; and more assistance to families through measures that are delivered through the services for which Mr Hockey is responsible.

One of the benefits we have already seen of bringing all those services together—I do not know whether senators on the other side have noticed, even though they have been told by Mr Hockey, because they are so busy trying to trawl through and find stories that they might be able to beat up—is that members and senators, be they Independent, Liberal or Labor, now have access to a single point of service for all the services delivered by the Health Insurance Commission and Australian Hearing Services through Centrelink.

Senator Chris Evans—Mr President, on a point of order which goes to relevance: the minister does not make any attempt anymore to answer the questions; she just reads from a particular brief. I ask you to draw her attention to the question, which was about ministerial responsibility, not about liaison officers. It was about what she is responsible for and what Mr Hockey is responsible for. I ask you to direct her to answer the question rather than just rave on.

The PRESIDENT—With regard to your point of order, you know, as I have said many times, that I cannot direct a minister how to answer the question but I can remind her of the question. I remind the minister also that she has 2½ minutes left to complete her answer.

Senator PATTERSON—I was saying that already Mr Hockey has streamlined services for members and senators so they can better service their constituents. They are some of the benefits of the change in the ma-
chinery of government. There are some issues about access to information as a result of the changes of responsibilities. We want ministers to be able to work within the legal authority and access records and comply with all the measures, including the privacy legislation. We may need legislative changes to allow this to happen. They are the issues, and I think it is only appropriate that Mr Hockey would make sure that he is operating legally when accessing information. The story in the Australian was an absolute beat-up. It is very important for Mr Hockey, now that he is in charge of delivering an increased number of services that assist the Australian people. It is going to now mean that we see more streamlined services. One measure already has seen services more available to constituents—but the Labor Party, on the other side, would not acknowledge that. I must say that I have a very good working relationship with Mr Hockey and we will achieve great things together.

Senator CHRIS EVANS—Mr President, I ask a supplementary question. The interest in this issue stems from questions asked at estimates, where officials of the minister’s department were unable to explain which minister was responsible for what task. The minister, while conceding there were problems, did not address the central issues. Didn’t the Audit Office conclude last week, for instance, that Centrelink’s 6½ million customers either did not know that feedback and review systems were available or did not use them because they fear retribution from the agency? Why has neither Minister Patterson nor the Minister for Human Services made any response to this scathing report? Is it because they do not know whose job it is? Doesn’t this failure to respond to the Audit Office report reflect the failure of the new ministerial arrangements and the lack of focus on the delivery of government services to those 6½ million Australians who use the services of Centrelink every year? Isn’t it clear that you do not know who is responsible for what and therefore you are losing the focus on the needs of the Australian people?

Senator PATTERSON—The answer to that other part of Senator Evans’s question is obviously no. Let me say that we have indicated—and I stand to be corrected, but I think I mentioned the ANAO report last week—that Centrelink values the information it gets back from its customers. I know that Mr Hockey is aware of the report and Centrelink is responding to each aspect of the ANAO report. It is about delivering better services. Compared with the sort of service that Australians got under Labor through the old social security system, there are light years of difference in the services that Centrelink is now delivering. If Senator Evans wants to criticise the thousands of Centrelink officers who are out there on a daily basis working face to face with their customers then he can do that. But Mr Hockey and I value what they are doing and will always try to improve what they are doing. Mr Hockey will always be trying to improve what they are doing but he will not criticise those officers in the way that Labor does. (Time expired)

Education: Early School Leavers

Senator LEES (2.41 p.m.)—My question is to Senator Vanstone, the Minister representing the Minister for Education, Science and Training. I ask the minister if she is aware that public research has shown clearly that at-risk students who are supported by transition brokers have a much better chance of moving into full-time employment or quality educational training after they leave school early. I ask the minister: does the government accept that their youth commitment partnerships have been a very pleasing success? Will the Commonwealth go beyond the recent pilot projects and fund transition
broker programs to support at-risk students nationally?

Senator VANSTONE—I thank the senator for the question. I will ask Brendan Nelson to give a direct response specifically to what you have said. But I do have some other information on students at risk that you might find interesting. I am told that there are about 50,000 students who drop out of school early each year and do not complete further qualifications. As we all know, in just about all areas education is a real advantage. It does not matter what sort you get, so long as you keep learning.

The issue of youth at risk, of course, needs to be put into perspective. I am told that 67 per cent of early leavers leave school because they want a job. Early leavers often combine full-time or part-time employment with study. In December 2004 the trend teenage unemployment rate was 15.7 per cent, which contrasted with 20.5 per cent in 1996 and 23.4 per cent in 1992. Of the 59,000 early school leavers in 2003 who were not in full-time study in 2004, 32,000 were in full-time or part-time employment—the majority in full-time employment—one year later. Thirty-six per cent of early school leavers were working, 21 per cent of early school leavers were combining work and study and another nine per cent were studying full-time but not working. Only 12,000 early school leavers were neither studying nor looking for work.

Research has shown that most—about 80 per cent of those—who are neither in study nor in the labour force have legitimate reasons for being so, such as being responsible for home duties and child care, which may be a legitimate explanation but it may not be a legitimate explanation for the course you take later in life as a consequence of not having done the study. Other legitimate examples include having a disability or an illness; looking after an ill or disabled person; perhaps being on a holiday; or working in a voluntary job.

I am told that recent research by the Australian Council for Educational Research found that many early school leavers make a successful transition into the labour market and in fact may make more successful transitions than those who complete year 12 but fail to go on to further study after that. By the age of 19, 67 per cent of early school leavers are likely to be in full-time employment compared with 61 per cent who finish year 12 but undergo no further education. So it seems that if you go to year 12 but no further you are more at risk than if you leave early but undertake some other form of training or get a job.

The government has implemented a variety of transitional programs and initiatives to support young people to make a successful transition to school and beyond. The government has recently announced $103.9 million over 2005-06 to 2007-08 to develop the Australian network of industry careers advisers to further support young people aged 13 to 19 to make these transitions. The government’s leadership in supporting the mainstreaming of VET in schools has seen retention rates rise. Today more than 200,000 young people benefit from the choice and relevance of VET in Schools programs. Twenty million dollars a year is provided to the states for targeted VET in Schools initiatives to top up recurrent grants provided to school systems. That goes specifically to the group you are talking about, Senator, but not to one part of your question, and I will refer that to Dr Nelson and get you an answer.

Senator LEES—Mr President, I ask a supplementary question. I thank the minister for that answer and I acknowledge that there have been some recent improvements. However, Minister, each year, as your own fig-
ures show, 12,000 to 15,000 young people do not find either work or worthwhile study, and this adds up over ages 15, 16, 17, 18 and 19 to around 60,000 to 100,000 young people at any one time being out there literally wandering the streets, bored and often without the skills to get themselves out of this predicament. Could you also ask Minister Nelson, regarding the long-term programs, whether he considers it to be a better option than what the government apparently has planned, and that is to look at skilled migration instead of actually training our own young people who, with programs such as the one I mentioned, can find a reasonable path for their lives.

Senator VANSTONE—Let me make it clear that the government is not looking at skilled migration as some substitute for training Australians. We have had a growing immigration program for many years. We have changed it from being one that was largely family reunion to one that was skills based because we think we should bring in people who can add to the economy and help Australia grow. I need to quarantine that part of your question. I might get back to you with some more information about that in the context of being immigration minister. I will ask the education minister to answer that part of your question and if Senator Patterson wants to add something I will make sure that is put into the answer.

You make a point about those people walking the streets. My concern is that they are not all walking the streets. Some of them are working as carers for sick or disabled brothers and sisters, parents and grandparents and they do not get the pleasure of walking the streets. They live a life of adulthood when they are in fact still teenagers. The situation of young carers is a very desperate one. (Time expired)
and say: ‘This is dreadful, this is shocking. The surplus is far too big. They should have spent it on X, Y or Z.’ Now, of course, they come out and say, ‘No, you are spending far too much and it is putting upward pressure on interest rates.’ That is a nonsense and it is not something that is accepted by the RBA Governor. He made it clear why he thought it was appropriate to move interest rates up by one-quarter of a per cent. If you read that statement, it is quite clear that it was based on reasons that had absolutely nothing to do with the fiscal position of the government.

In relation to this figure of $66 billion, that is over a five-year period over which time the federal government will be spending some $800 billion to $1,000 billion. We have a budget now of over $200 billion a year. The paradox in all of this is that, of the $66 billion which those opposite profess to complain about, $19 billion takes the form of direct tax cuts and a further nearly $17 billion takes the form of increases in family tax benefits. So more than half of the $66 billion is actually tax cuts and family benefits. Then, having complained about that, the opposition comes in and complains that taxes are too high. So on the one hand we are spending too much and deteriorating the budget position but on the other hand we need tax cuts because tax is too high. It is a nonsensical position. It means that the opposition still has no clear, coherent position on fiscal policy or management of the economy, and we all ignore what it says for that reason.

Senator COOK—I point out that the minister never answered my question at all. I asked whether he agreed with the views of independent economists, not someone appointed by the government to the Reserve Bank’s position. I ask a supplementary question. Is the minister also aware of comments by Mr Eslake that, in order to reduce the inflationary pressures created by government spending, ‘the government needs to find some “non-core” promises and break them’? Can the minister advise the Senate whether the government intends to take this advice? If so, what non-core promises does it intend to break? Alternatively, will the government make home borrowers bear the cost by forcing the Reserve Bank to further increase interest rates?

Senator MINCHIN—We are not going to break any promises. We will honour all of our promises to the electorate in full and we will do so in such a way as to preserve the strong fiscal position of this government, returning surplus after surplus. Any dolt can understand that if you are taking more out of the economy than you are putting in by way of surpluses then you are reducing the upward pressure on interest rates. It is an absolute fact of life that if you are running surpluses then the federal government is contributing to the savings of the community and not doing anything that puts pressure on interest rates. The government will continue to adopt that very strong position.

Orchestras Review Report

Senator BARNETT (2.53 p.m.)—My question is addressed to the Minister for the Arts and Sport, Senator the Hon. Rod Kemp. Would the minister inform the Senate of the recommendations of the Strong review into Australia’s pit and symphony orchestras, entitled A new era—report of the orchestras review 2005. Could the minister comment on proposals to downsize some orchestras?

Senator KEMP—Thank you, Senator Barnett, for that important question and for your longstanding interest in this matter. Orchestras play a very important role in the cultural life of all states. The orchestras form a critical part of the infrastructure of classical music in their communities. They play a major role in the mentoring, support and artistic development of aspiring young Australians. The orchestras support—as many of you will
know—other art forms, notably opera and ballet. They provide opportunities for Australian composers through the performance of their works and are an important source of musical creativity and innovation in their own right.

The Australian government, let me stress, are a major supporter of Australia’s pit and symphony orchestras. We pay just under $45 million to orchestras annually, which is some 78 per cent of the total government funding in this area. The review recommended a range of options to address the critical structural issues facing the orchestral sector. Some of the recommendations include that the state symphony orchestras be re-established as public companies, independent of the ABC; that there be a funding injection to raise the accumulated deficits of the state symphony orchestras; that there be strategic reform of orchestras’ workplace relations and practices to increase their flexibility and efficiency; that the efficiency dividend be removed from the orchestras’ base grants; and so on.

Reducing the ensemble size of the Adelaide, Queensland and Tasmanian symphony orchestras is also one of the recommendations. I would like to make some comments on this particular recommendation. As is well known, I am an enthusiastic supporter of Australia’s pit and symphony orchestras and their many achievements. I am not alone; many of my colleagues are equally enthusiastic in their support of orchestras. I have spoken with many of them in recent days. To name but a few from this chamber, I have spoken to Senator Abetz, who has barely been off the phone to me; Senator Minchin; Senator Brandis; Senator Mason; Senator Santoro; Senator Ferguson; Senator Colbeck; Senator Watson; Senator Barnett—a very wide range of senators. One of the people who has spoken to me in a firm and fair manner is the President of the Senate. I hope that by saying that, Mr President, I do not breach any confidences about discussions with you. Equally, members of the other chamber have also spoken to me. They have all expressed to me the need to maintain the current size of the orchestras in Hobart, Adelaide and Brisbane. I am very sympathetic to their views.

This is a government that listens to the community and a government that listens to its senators and members. To maintain the current size of orchestras it is necessary that state governments involved indicate their willingness to contribute an appropriate share of the necessary additional funds. We will also need an appropriate response to the other proposals contained in the Strong review. If these conditions are met, I am confident that the Adelaide Symphony Orchestra, the Queensland Symphony Orchestra and the Tasmanian Symphony Orchestra will thrive long into the future at their current size.

**Sydney Dance Company**

**Senator CARR** (2.58 p.m.)—My question without notice is to Senator Kemp, the Minister for the Arts and Sport. Can the minister confirm that the accumulated deficit of the professional orchestras is now at $7 million? Can the minister also confirm, however, that it is not just orchestras that are facing financial deficits? Can the minister confirm that the Australia Council is in emergency negotiations with the Sydney Dance Company, which faces a current deficit reported to be in excess of $600,000? Can the minister also confirm that the company’s board has indicated that it will resign if the deficit cannot be removed by 31 March, when the company’s annual reports need to be signed off? What are the details of the bailout package sought by the Sydney Dance Company?

**Senator KEMP**—Thank you, Senator Carr, for that first question on the arts. Sena-
Senator Carr is the seventh—or is it the eighth?—shadow minister for the arts in the Labor Party.

Honourable senators interjecting—

The PRESIDENT—Order! There is too much noise on both sides of the chamber. I ask the Senate to come to order.

Senator Chris Evans interjecting—

The PRESIDENT—Senator Evans, I asked the chamber to come to order, and that includes you.

Senator Kemp—As I was saying, I welcome this first question from Senator Carr on the arts. I have indicated that Senator Carr is the seventh or possibly the eighth shadow minister for the arts in nine years under the Labor Party. Senator Carr, let me assure you, none of the other shadow ministers for the arts wore themselves out through overwork.

Senator Chris Evans—They were shadowing you!

The PRESIDENT—Order! Minister, ignore the interjections, address your remarks through the chair and I remind you of the question.

Senator Kemp—Senator Carr, as you may be aware—but you may not be aware—there has been a series of discussions between the Australia Council and the Sydney Dance Company about the problems that the company are facing. Indeed, the company have come to see me and put their views to me, and I am sure they are putting their views to other senators and members. The government are very supportive of the Sydney Dance Company. We are very supportive of Graeme Murphy. There are problems that the Sydney Dance Company have, and I am very hopeful that those problems can be worked through in their discussions with the Australia Council so that we can put the Sydney Dance Company onto a secure basis and so that that company will continue to be available and the work and art of Graeme Murphy will continue to be seen by many Australians. I think these discussions are continuing. I think it is appropriate that we see what the result is. There is no lack of support for the Sydney Dance Company, let me assure you, on this side of the chamber and, I assume, on your side.

Senator Carr—Mr President, I ask a supplementary question. Does the minister recall that the Australia Council has now publicly described the government’s cultural funding model as ‘unsustainable’? Can the minister now explain what steps he is taking to prevent other major arts organisations that are also facing financial pressure from falling into the crisis faced by the Sydney Dance Company? What action is the minister taking to fully index government grants to organisations such as the Tasmanian Symphony Orchestra, the Adelaide Symphony Orchestra and the Sydney Dance Company in order to maintain the value of their Commonwealth grants?

Senator Kemp—Unlike Senator Carr, I have actually read the Labor Party arts policy, as produced by Senator Lundy. In that arts policy there were cuts to the Australia Council. And of course I looked in vain through that policy to see whether there was anything involving the efficiency dividend—the matter you raised with me, Senator Carr—and indexation. I looked in vain. After nine years of the Labor Party talking about this, they did absolutely nothing. The government are very supportive of the arts. We have a comprehensive arts policy, we will continue to work with the arts community and we will continue to achieve real outcomes, unlike the Labor Party.

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.

Senator Vanstone—Buy yourself a tape recorder and play yourself back!

Senator WONG—Thank you for that contribution, Senator Vanstone. I am actually going to talk about Senator Vanstone’s answers in question time—or her failure to answer, yet again, questions about the skills shortages which have developed under this government. The minister was asked about two reports, one presented to the Senate in 2003 and one presented to the House of Representatives this week, in which the Howard government’s failure to deal with the skills shortage is documented. The fact is that under this government we have seen skills shortages emerge which are now a substantial constraint on economic growth.

Government senators interjecting—

Senator WONG—This is not something that just the Labor Party are saying; this is something that the Reserve Bank is saying. You do not like hearing this, do you? You do not like the fact that you have been warned about skills shortages over a number of years and—you know what?—you have done nothing about it. What you have seen since 1996 is a reduction in the share of new apprenticeships in the traditional trades. You do not have an answer to that.

The fact is that the Reserve Bank, other commentators and Senate and House of Representatives committees have been saying that there is a skills shortage emerging, and what has this government done? It has done nothing. What it has done is ensure that we have increasing numbers of new apprenticeships in areas where there are no skills shortages and a reducing share of apprenticeships in areas where there are skills shortages. This is hardly a sensible policy towards vocational training; it is hardly a sensible economic policy.

Why is this a concern? Clearly it is a concern because skills shortages are a constraint on economic growth. Under this government what we have had is neglect or wilful ignorance which has allowed the skills shortage to build into a substantial economic constraint. It is not just a constraint in terms of economic growth; it is clearly also a constraint in terms of people’s capacity to fill jobs in the Australian labour market. This is not a new issue—it is an issue that has been documented for some time—but it is clear from more recent employment data that these skills shortages or skills deficits are growing as a constraint on people’s ability to enter the labour market.

Just last week we had the ABS statistics of persons not in the labour force, where it was clear that of the discouraged job seekers—these are people who have given up because they do not think they can find work—almost 50 per cent, that is, 48 per cent, identified a skills related issue as the reason they were discouraged; 25 per cent indicated that they lacked the necessary schooling, training, skills or experience; and 23 per cent indicated ‘no jobs in locality or line of work’. That is clearly a skills and job-matching issue.

Also, just today other ABS figures have been released which show that around 55,000 part-time workers in Australia identified that there are no vacancies in their line of work—that is, their skills do not match the current vacancies—and a further 30,000 lack the necessary skills or training for the work that is advertised. Now what does this mean?
What this means is we have a gap between the skills which are required by employers and those which prospective employees have—a significant gap, a significant loss of employment potential and a significant effect on employment outcomes for Australians.

What is the government’s response to that? Again, we see a short-term fix response from this government. We see an emphasis on skilled migration, on bringing in people instead of training Australian workers. What do the government say to the unemployed young people in Newcastle? What do the government say to the unemployed young people and mature age workers in Geelong? They say, ‘Sorry, we haven’t worked on this enough since 1996, so we’re going to bring a whole range of skilled workers in from overseas to take these jobs.’ Perhaps one of the most damning things that has happened this week in relation to this is that in the report tabled in the House of Representatives the government’s own backbenchers have confirmed that they know there is a skills shortage. They know that the Howard government need to do more. They know what seems to have escaped the ministers in this place: that more needs to be done by the government if we are going to address the skills shortage. Even the government’s own backbenchers have identified the skills shortage and identified that the government have to do more to address this shortage and to maximise the uptake of traditional apprenticeships. In tabling the report, the member for Deakin noted one modeller’s predictions that in 2020 there will be half a million jobs in Australia with no-one to fill them. (Time expired)

Senator TIERNEY (New South Wales) (3.08 p.m.)—I rise to speak on the answer given by Senator Vanstone to Senator Wong’s question on skills shortages. We do have skills shortages at the moment, but let us contrast this with what happened under the Labor government in the late eighties and the early nineties. There were absolutely no skills shortages at all. The reason for that was that unemployment was so high. There were so many jobs not created at that time because of the Keating-induced recession that it obviously was not a problem.

Senator Wong—You know that is not the only reason.

Senator TIERNEY—Senator Wong, the corollary of that is that, if you have high employment and unemployment is dropping rapidly, then obviously you are going to get skills shortages. You reported on a House of Representatives inquiry that brought down a report last week. The Senate held inquiries into this matter back in the early nineties and into the late nineties. The reason we held those inquiries is that we were trying to solve the major problem facing the country at that time, which was unemployment. The Keating-induced unemployment created problems with youth unemployment in this country. We held an inquiry into youth unemployment. It created enormous problems with long-term unemployment. We held a Senate inquiry into long-term unemployment. It created enormous problems with the older people in the work force who could not get jobs. We held an inquiry into that. We were trying to get people into work. We were trying to create schemes to find work for people. But the world has moved on. Australia has moved on. Areas of Australia that used to have very high unemployment have moved on.

Senator Wong referred to Newcastle. Let us compare what was happening in the nineties to what is happening now. Regional unemployment under the Hawke-Keating government was up around 16 per cent. What is it today? It is six per cent. Senator Wong said that the youth of Newcastle would be missing out. They were sure missing out under the Labor Party! Up to 30 per cent were
missing out because they were not getting jobs under Labor. The Hunter economy is now booming, along with the rest of the Australian economy, and these people are getting jobs. That does not mean that we should not be undertaking measures to try to fix the skills shortage, but keep in mind that the basic underlying problem is the fact of high employment in this country. That is why we are now running out of workers—because of the Australian economy booming.

Senator George Campbell—They are running out of skills! There’s a difference—

Senator Tierney—Let us have a look at the short-, medium- and long-term solutions to this. The short-term solutions are obviously in the area of having people from overseas with skills coming into the country to fill in where we do have shortages. That will help the economy develop and boom. In the medium term, we need to retrain our people and train more in the specific skills areas that are missing. In the long term, as I said in this place last week, we need to encourage the return of those people with very high levels of skills who have gone overseas and not returned. There are now one million highly skilled Australians working overseas. A population the size of Adelaide is working overseas. If we can encourage more of those people to come back, that will certainly help ease the skills shortage. There are proposals for programs in place to actually do that.

Senator Campbell has been interjecting about our inquiry into this. With regard to the medium-term solution of improving the skills of our youth and getting them jobs, one of the things that we did discover was that the attitude of parents and teachers was putting young people off going into trades. They say everyone should go to university. That is not a realistic outcome. The Prime Minister has made comments on that recently—that we need to change those attitudes and get more of our young people to see the trades as a really worthwhile occupation. The government, through New Apprenticeships, has brought in a series of programs to do that.

Senator George Campbell—Did somebody switch the lights on? That was part of our report months ago, which you just ignored. The minister did not even have the courtesy to respond to it!

Senator Tierney—Senator, in the nineties, when you were in government, the traditional trades kept declining year after year. Now, with the New Apprenticeships scheme and other schemes in place, we have the mechanisms for improving that if we can change attitudes. (Time expired)

Senator Buckland (South Australia) (3.14 p.m.)—I rise to speak on Senator Vanstone’s answer to Senator Wong’s question on skills shortages. Just as a sign of friendship towards Senator Tierney, if I get time before I leave this place at the end of June, I will try to sit down with him and explain that a skills shortage does not necessarily equate with unemployment rates. In fact, it does not have anything to do with it. This is the problem with this government: they look at one thing and say, ‘We’ll fix our problem by diverting attention to something different.’ That is what they are trying to do here. It seems that it is terribly late for the government to wake up to the fact that we have this skills shortage. There is no doubt, as you go around industry and talk to industry leaders, unions and workers, that there is a crying shortage of people trained and ready to do those jobs, particularly in the traditional trades. There are a number of reasons that this has come about, and it has come about since this government has been in power.

I argued many times before coming to this place with employers and told them not to go down the line of saying: ‘We don’t need
people who are non-core to our business. We don’t need tradespeople. We’re manufacturers. We’re producers of a product. The tradespeople are incidental.’ Try as you might, you could not convince these employers that they were taking the wrong approach in using labour hire companies to bring in tradespeople to do the work. They have botched it because the labour hire companies simply do not want to train tradespeople. They want someone else to train them, but who is there to train them? They are all labour hire. So the companies made that choice, supported by government policy.

Companies were more interested in buying out older workers and indeed young workers with packages and incentives to leave the industry. They said, ‘If you don’t want to leave your trade then we’ll offer you a job as a production worker.’ All those skills have been lost, thanks to the policy of this government. Then they have the hide to stand up in this place and try to take us back in history to unemployment rates, which have got nothing to with it. You will have unemployment or full employment regardless of what the skill levels of people are. There will be work for people who want it if it is offered in the proper way. But this government just simply want to take advantage of a situation they did not see coming.

The majority of Liberal senators agreed with the recommendations contained in the 2003 report but did not have the courage to press it with the government—to press their point of view—and get the minister to do something about it to address the needs of industry, I took part in much of that inquiry. We went to industry and asked the questions. Time and time again they were saying, ‘We can’t get people to come into traditional trades.’ As a parent with young sons going through school, I understand that we all aim to have our children achieve the highest possible results. We all get caught up with the idea that they are going to university. That is what the schools want. Outcomes at school equate to going to university, and that is supported by this government.

But suddenly the government are saying, through the Prime Minister, that there is nothing wrong with being a tradesperson. Yet it is too late to catch up with what we have got in front of us now. The shortage is immediate. We cannot overturn it immediately. It is a demonstration that this government just took their eye off the ball yet again. They tried to whack the workers and say: ‘We’ve got it right. We’ll get a highly educated, highly motivated work force.’ But they had it already, and they bought it out. (Time expired)

Senator CHAPMAN (South Australia) (3.19 p.m.)—In the latter part of last year, I had the privilege of opening a vocational training facility, the St Joseph the Worker training centre, at Cardijn College in the southern suburbs of Adelaide. This is a facility which is providing training opportunities leading to apprenticeships in the building industry for young people. It will be open to not only students of Cardijn College but also students from other schools in the region. This is just one example of the initiatives that the Howard government is taking—this was a centre largely funded by the Howard government—in fostering cooperative efforts to overcome the skills shortage.

That skills shortage has become evident, as Senator Tierney said a few moments ago, because of the outstanding success of the Howard government in reducing the high levels of unemployment it inherited from the Keating and Hawke Labor governments and indeed in maintaining strong levels of growth in the economy, which is demanding that jobs be filled. Senator Tierney also alluded to the fact that there was no problem with regard to a skills shortage in the period
of the Labor government because of those high levels of unemployment.

Another reason that this problem of a skills shortage has emerged is that, during that era of the Labor government and particularly during the period when John Dawkins was minister for education, the view was that everyone had to obtain a university degree. Under Dawkins, all tertiary institutions—previously colleges of advanced education, teachers colleges and the like—were converted to universities. All graduates from those institutions suddenly became university graduates because of this demand that everyone must have a university degree. The consequence was that the status of other post-secondary qualifications, such as apprenticeships, was downgraded. That is another source of this particular problem that is being addressed by the Howard government—by statements from the Minister for Education, Science and Training, Brendan Nelson, and others indicating that a university degree is not an indicator of job status but indeed that trades qualifications are extremely important in the context of Australia’s development and that those with trades qualifications will make an enormous contribution towards the development of Australia.

This government is addressing quite strongly this issue of skills shortages, particularly in traditional trades. Not only are we providing those educational opportunities but we are working with industry to address identified skills shortages. Additional focus is being placed—

Senator George Campbell—How?

Senator CHAPMAN—If you listen, Senator, you will hear just exactly how we are doing it. We are placing additional focus on the traditional trades. As I said, Australia’s economic boom has been a major factor in this dramatic increase in the demand for skilled workers.

Senator George Campbell—Tell us how you are doing it. Come on, give us an example.

Senator CHAPMAN—Let me tell you, Senator. A substantial 38 per cent of new apprenticeships are in the trades and related occupations—covering trades such as carpenters, plumbers and electricians—while these occupations make up only 13 per cent of the employed work force. The percentage of new apprentices entering this field is almost three times the percentage of the work force that those trades make up. For the 12 months to 30 September last year, there were about 68,500 new apprenticeship commencements, which was a 19 per cent increase on the previous year in trades and related occupations. There has also been an increase of 18 per cent in new apprentices in trades and related occupations since September 1996—the year that the Howard government came to office. That means that there were 126,100 new apprentices in trades and related occupations in 1996, and that went up to 148,400 by September 2004. Additionally, during the last five years, employment has grown in trades and related occupations at an annual rate of 0.7 per cent, while the rate of new apprentices training in the same occupations has grown 3½ times faster, at an average rate of two per cent. Since 1996 there has been a 55 per cent increase in the number of young people commencing in trades.

All of those statistics clearly demonstrate the success of the Howard government’s initiatives with regard to addressing the skills shortages. These initiatives have not been undertaken just in the last year or so but in fact commenced to address the neglect that was a feature of the previous Labor government. We addressed that neglect as soon as we came to office in 1996. Since 1999, $12½ million has been contributed by the federal
government towards investigating and addressing future skill needs. *(Time expired)*

**Senator CARR** (Victoria) *(3.24 p.m.)*—I would like to speak about the answers to questions asked of the Minister for the Arts and Sports today. I must begin by pointing out that the recent trend in arts programs highlights just what a mess the cultural program of this government is in. The major arts funding agency, the Australia Council, is now faced with a series of funding crises that cannot be solved individually. Yet that is the approach the government seems to take when it comes to dealing with cultural policy. It seeks to isolate individual companies and individual problems and then tie future government funding to economic performance indicators that a number of states have demonstrated to be of dubious value.

The Sydney Dance Company is the latest cultural institution to face insolvency. The Australia Council is facing massive protests against its attempt to abolish the community cultural development programs.

**Senator Hill**—This is all the fault of the government, is it?

**Senator CARR**—Indeed it is. We have a situation where the Strong review has highlighted that the accumulated deficits of the orchestras is approaching $7 million. The review projects that by 2010, on a reasonable assumption as to the future movements in costs and revenue, the Queensland Orchestra, the Adelaide Symphony Orchestra, Opera Australia and the Australian Ballet could all face accumulated deficits which approach or exceed the orchestras’ total annual revenue in that year. The financial situation of the Tasmanian Symphony Orchestra is similarly precarious, with a projected accumulated deficit by 2010 of $3.8 million or 44 per cent of the orchestra’s projected revenue in that year.

We have got a central problem running through all of these difficulties, Senator Hill, and it is simply this: the government’s financial program is unsustainable—and that is what the CEO of the Australia Council has told the council and also Senate estimates. What we have got now is a core problem whereby the government has failed to maintain proper indexation arrangements to maintain the quality of grants programs. Not only that; it has insisted on an efficiency dividend which has seen a situation where, on a base indexation grant of 2.2 per cent, a one per cent efficiency dividend is also subtracted, which means the effective rate of indexation for our cultural institutions is 1.2 per cent. With average cost movements in wages alone of around four per cent, it is not difficult to see what happens. We have got a growing gap between the amounts of money that the government is providing as core funding and the amount of money required to sustain programs.

Equally significant is the fact that the average cost has not been met. If we look at the accumulated deficit—currently about $7 million—and take into account what would have happened if the government had maintained indexation, it is about the same amount of money, about $6.8 million. They zero each other out. The key issue here is the failure of the government to provide an effective indexation arrangement to ensure that these important cultural institutions are able to do their jobs.

We have a situation now where 72 per cent of the orchestras’ base and core costs are devoted to salaries and on-costs. There is not a lot they can do, other than—as the government are now proposing they do—cut staff. The government’s answer to this financial crisis is to cut back on skills—to cut back on the people who maintain these important programs. That is the government’s answer to everything, isn’t it? Sack workers.
They do not provide increased investment, they do not provide adequate indexation; they sack the musicians. That is their answer to the problem: sack the musicians. What an extraordinary proposition it is that the government do not seem to appreciate just how important these institutions are in cultural terms and economic terms. They do not understand that they have got to look beyond Sydney and Melbourne when it comes to the provision of support for cultural institutions.

What we have to say to the government is: reject these recommendations from the Strong review. It is a good report; the problem is that the recommendations are just wrong. They have got to look to a new funding model so that various other cultural institutions will not also be faced with a financial crisis like the one that has been exposed with Australia’s orchestras.

Senator BARTLETT (Queensland) (3.29 p.m.)—Firstly, I would like to add my support as a Queensland senator to ensuring that the symphony orchestra in my own state is not degraded and devalued as a result of the report that has just been spoken about. I would also like to speak to some of the other issues that were addressed in question time, particularly the questions regarding skills. We have a debate in this country about whether we should increase the skilled migrant intake or increase the spending on training, trades apprenticeships and skills development. It is not so much a matter of either/or of course; there can be an approach for action in both areas. Clearly, the fact that there needs to be such a huge increase in the skills section of the migration program or that we are also considering increasing the number of people who can come on temporary visas with skills or on temporary business visas is a clear indication of how this government has fallen short of the mark and does not have a long-term vision about skills, about trades, about apprenticeships and about education at the elite level and at the tertiary level more broadly. It is a clear indication of failure.

There are a few other aspects that need to be emphasised. I have spoken a number of times about how I do not believe the degrading of the family aspect of the migration program has been in Australia’s interests. The minister today said that the government has shifted the focus of the migration program much more towards skills and reduced the number of people who can come in under the family aspect of the program. I want to refer to a comment by Minister Vanstone’s predecessor, Minister Ruddock, which was made a few years ago when he was the immigration minister and the skills intake was around 35,000. There were calls then, as there always are from the business community, to increase it and to let in more people on permanent skilled visas. At the time, he said—and, I think, with a lot of validity—that if you dramatically increase the intake under the skills program, you will have to set the bar so low that you would be degrading the effectiveness of the program and not getting the skill level, in some aspects, that is necessary. Yet, four or five years later, we are looking at having a program close to 100,000—almost three times the amount it was when Mr Ruddock made those comments. There is some scope for an increase, but to say that you could increase it nearly threefold and not have some of the problems that Mr Ruddock pointed to is, I think, misleading people.

I think, in many ways the government know that it is not going to be feasible in some of the skill areas to actually get the people from overseas. It is not as if there is this huge number of highly skilled people in all of the areas we want who are just sitting around with no country that will take them. In many of these areas there is a highly competitive market. Australia actually offers
lower salaries than many of the other countries for some of the skills that we are short of. Unless we dramatically increase salary payments—and that would put pressure on interest rates as well as create issues of equity—then we are simply not going to get them. The only way to get people for the amount that we pay in Australia would be to reduce the level of qualifications required. I think there is a misleading aspect to the suggestion that there is a quick fix here.

The second aspect I would point to is that we should not forget that we have many skilled people in Australia, including migrants, who are being prevented from having their skills used to full effectiveness. We have thousands of refugees on temporary visas who are excluded from English language classes and from going to the various educational institutions that would allow them to upgrade their skills. I draw attention to a report in the Independent about UK refugees and the loss of the skills of those people. Compare the cost of training a new doctor to the small amount required to fund a person who is already trained as a doctor to upgrade their skills to Australian standards. There are people right here in our community with the skills. The same applies with family reunion. People cannot bring their family with them because the government has reduced the program. They are also less likely to come here for that reason. It has actually been the crackdown on some aspects of the refugee program, through temporary visas and the separation of family that attaches to temporary protection visas for refugees, as well as the crackdown on the family program, that is hurting the supply of skills. (Time expired)

Question agreed to.

PERSONAL EXPLANATIONS

Senator SANTORO (Queensland) (3.34 p.m.)—I seek leave to make a personal explanation.

Leave granted.

Senator SANTORO—Last week in this chamber Senator Brown made some remarks about me to which I shall respond fully in due course. Senator Brown’s assertions demand deep examination and I assure the chamber and, through the chair, Senator Brown that this process is taking place. In the nature of these matters, Senator Brown’s claimed grievance will be addressed chiefly by the answer the ABC provides to the question to which he objected that I placed on notice at the conclusion of the estimates hearings. In particular, it would be constructive to read a transcript of the audio tape of the program segment that led to the initial complaint that came to me from a listener. I hope that it can be provided.

Senator Brown, again, as usual, is interested in creating a diversion. In the question that I placed on notice at the estimates hearing, I did not say I was directly quoting anyone. That is merely the self-serving, interpretive insinuation placed on the matter by Senator Brown. In fact, I was relaying what had been reported to me as the gist of a broadcast segment of the program on ABC radio’s Triple J. Last week in this place, Senator Brown, who said he was aggrieved at an affront to the Senate, failed the Senate’s own custom and practice by omitting to inform me that he proposed to speak adversely about the actions of a fellow senator. I advise the Senate that, although he did not extend that courtesy to me last week, today I informed him in advance of my intention to make this personal explanation.

Senator BROWN (Tasmania) (3.35 p.m.)—by leave—There is a salient lesson for Senator Santoro in his actions. It is just
not good enough to say, ‘I was quoting someone else,’ when you use words which are a calumny against another member of the public, be it a journalist or not. We simply do not and should not encourage the practice of coming into the Senate and using awesomely defamatory terms—put into the mouths of other people—like ‘anti-Jewish’, unless they are checked. Senator Santoro was quoting a blogger from Queensland who said he thought his recollection was of having heard a much-respected ABC journalist on Triple J using anti-Semitic terminology, and he used the words.

Senator Santoro ought to know that you must check on something like that before you use it. It is demonstrably wrong. Those terms were never used and, as far as I can see, a journalist is owed an apology. We all need to learn from that, but Senator Santoro owes that journalist an unqualified apology and withdrawal and indeed withdrawal of the question, which is still on public notice and attributes those false quotes to the particular journalist. It is a very serious matter and it has not been rectified.

Secondly, when it comes to notifying other senators that a statement is about to be made in here, I think it would be a good process but it is one that has in general not been used by Queensland coalition senators. I quote, for example, Senator Brandis’s attack on the Greens as being ‘Nazis’ last year. That was an unprecedented and uncalled-for attack on the Greens with no courtesy whatever in any part of it. If Senator Santoro wants to see that sort of courtesy, which I think would be an innovation in this place, then he ought to speak to his colleagues about it.

PETITIONS

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

**Education: Educational Textbook Subsidy Scheme**

To the Honourable the President and Members of the Senate in Parliament assembled.

The Petition of the undersigned draws to the attention of the Senate, concerns that the expiration of the Educational Textbook Subsidy Scheme on June 30 will lead to an eight percent increase in the price of textbooks, which will further burden students and make education less accessible.

Your petitioners believe:

(a) a tax on books is a tax on knowledge;
(b) textbooks—as an essential component of education—must remain GST free;
(c) an increase in the price of textbooks will price many students out of education, particularly those students from disadvantaged backgrounds; and,
(d) the Educational Textbook Subsidy Scheme should be extended past June 30.

Your petitioners therefore request the Senate act to extend the Educational Textbook Subsidy Scheme indefinitely.

by Senator Stott Despoja (from 12 citizens).

Petition received.

NOTICES

**Presentation**

Senator Mason to move on the next day of sitting:

That the time for the presentation of the report of the Finance and Public Administration Legislation Committee on annual reports tabled by 31 October 2004 be extended to 10 May 2005.

Senator Bartlett to move two sitting days after today:

That the Senate—

(a) notes that:

(i) National Youth Week, which runs from 9 April to 17 April 2005, has as its theme ‘Celebrate and recognise the value of all young Australians to their communities’ and is a vital opportunity
to celebrate young Australians’ ideas, contributions, talent and energy,

(ii) young people’s contributions to community and society are often overlooked and undervalued, and

(iii) despite the creation of 1.2 million new jobs in Australia during the past decade entrenched youth poverty persists, with a conservative estimate that 145,000 young people aged 15 to 24 live in poverty; and

(b) calls on the Government to:

(i) put a ceiling on youth rates applying beyond workers’ 18th birthdays, and

(ii) abolish the parental income test on youth allowance for young people over the age of 18.

Senator Ridgeway to move on the next day of sitting:

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

The operation of the wine-making industry, with particular reference to the supply and purchase of grapes.

Senator Ellison to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to extend the circumstances in which communications can be intercepted without warrant, and for other purposes. Crimes Legislation Amendment (Telecommunications Interception and Other Measures) Bill 2005.

Senator Ellison to move on the next day of sitting:


Senator Ellison to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to make various amendments of the statute law of the Commonwealth, and for related purposes. Statute Law Revision Bill 2005.

Senator Ellison to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to amend the Ozone Protection and Synthetic Greenhouse Gas Management Act 1989 and to make changes relating to the Sydney Harbour Federation Trust, and for related purposes. Environment and Heritage Legislation Amendment Bill 2005.

Senator Ellison to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to amend the Consular Privileges and Immunities Act 1972, and for related purposes. Consular Privileges and Immunities Amendment Bill 2005.

Senator Bartlett to move on the next day of sitting:

That there be laid on the table, no later than the conclusion of question time on Wednesday, 11 May 2005, the following documents:

(a) any reports or similar materials from Australian Pesticides and Veterinary Medicines Authority relating to glyphosate, herbicide-tolerant genetically-engineered plants and Fusarium; and

(b) all agronomic data from the Office of the Gene Technology Regulator-approved Bayer or Monsanto genetically-engineered canola trials conducted in Australia.

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

That the Senate—

(a) notes that 16 March 2005 is the third anniversary of the date on which the Minister for Foreign Affairs (Mr Downer) issued the first certificate pursuant to subregulation 5A of the Diplomatic Privileges and Immunities Regulations to prevent Falun Gong practitioners from holding peaceful demonstrations in front of the Chinese Embassy, and that the Minister has issued consecutive certificates since that time;
(b) acknowledges wide-ranging evidence indicating that Falun Gong practitioners continue to be subjected to persecution, detention and torture in China;

(c) expresses concern that preventing Falun Gong practitioners from holding peaceful demonstrations in front of the Chinese Embassy may compromise the practitioners’ freedom of political communication under the Australian Constitution;

(d) notes that Falun Gong practitioners have been free to demonstrate in front of Australian Government institutions, including Parliament House, without any concern for the dignity of those institutions;

(e) expresses the view that it is inconsistent to enforce a more restrictive standard in relation to peaceful demonstrations in front of the Chinese Embassy than that which applies to demonstrations in front of Australian Government buildings;

(f) recalls its resolution agreed to on 1 December 2003 to reaffirm its commitment to freedom of belief within Australia and recognise the freedom of Australians to practise Falun Gong without fear of harassment; and

(g) calls on the Minister for Foreign Affairs to refrain from issuing further certificates which would prevent Falun Gong practitioners from demonstrating in front of the Chinese Embassy in the future.

Senator Cherry to move on the next day of sitting:

That the following matters be referred to the Environment, Communications, Information Technology and the Arts References Committee for inquiry and report by 13 October 2005:

An assessment of the long-term success of federal programs that seek to reduce the extent of and economic impact of salinity in the Australian environment, including:

(a) whether goals of national programs to address salinity have been attained, including those stated in the National Action Plan for Salinity and Water Quality, National Heritage Trust and the National Landcare programs;

(b) the role that regional catchment management authorities are required to play in management of salinity-affected areas, and the legislative and financial support available to assist them in achieving national goals; and

(c) what action has been taken as a result of recommendations made by the House of Representatives’ Science and Innovation Committee’s inquiry ‘Science overcoming salinity: Coordinating and extending the science to address the nation’s salinity problem’, and how those recommendations may be furthered to assist landholders, regional managers and affected communities to address and reduce the problems presented by salinity.

Senator Allison to move on the next day of sitting:

That the Senate—

(a) recognises:

(i) the inherent dangers of nuclear proliferation and the role uranium plays in the development of weapons of mass destruction,

(ii) the poor record of safety breaches in Australia’s existing uranium mines, and

(iii) the potential for widespread and long-lasting damage to communities and the environment as a result of accidents involving nuclear power generation; and

(b) calls on the Government to rule out the development of any new uranium mines and to reduce the number of operational uranium mines in Australia to three, regardless of price and demand in global uranium markets.

Senator Nettle to move on the next day of sitting:

That the Senate—

(a) notes:

(i) the proposed Nam Theun 2 Dam project in Laos will have significant nega-
(ii) the inadequacy of consultation with communities affected by the dam,
(iii) that the dam will flood approximately 40 per cent of the Nakai Plateau, home to hundreds of bird species and the Asian elephant,
(iv) that as many as 150 000 people whose livelihood relies on the Xe Bang Fai river will be affected, and
(v) that the World Bank Board of Executive Directors is currently deciding whether to support the dam; and

(b) calls on the Government to:
(i) urge the Laotian Government not to proceed with the project, and
(ii) request the World Bank not to support the Nam Theun 2 Dam.

Senator Nettle to move on the next day of sitting:

That the Senate—

(a) notes that:
(i) 20 March 2005 marks 2 years since the illegal invasion of Iraq by a coalition led by the United States of America (US) which included Australia,
(ii) on the weekend of 19 and 20 March 2005, people in every capital city in Australia and across the world will join protests calling for an end to the occupation of Iraq,
(iii) 1 791 soldiers from coalition forces have died in Iraq,
(iv) the US, United Kingdom and Australian Governments have refused to count Iraqi casualties despite estimates that up to 100 000 Iraqis have died in the conflict,
(v) the British Medical Journal has published a call by public health experts from around the world, including Australia, for an immediate ‘comprehensive, independent inquiry into Iraqi war-related casualties’, and
(vi) the winning political coalition, the United Iraqi Alliance, in the recent Iraqi election included a policy of ‘a timetable for the withdrawal of the multinational forces from Iraq’ in its election platform; and

(b) calls on the Government to:
(i) reverse its decision to deploy an additional 450 Australian Defence Force personnel to Iraq, and
(ii) withdraw all Australian troops from Iraq as a contribution to resolving the conflict.

Withdrawal

Senator FERRIS (South Australia) (3.40 p.m.)—Pursuant to notice given at the last day of sitting on behalf of Senator Tchen and the Standing Committee on Regulations and Ordinances, I now withdraw business of the Senate notices of motion Nos 1, 3 and 4 standing in his name for 10 days after today.

BUSINESS

Rearrangement

Senator FERRIS (South Australia) (3.40 p.m.)—by leave—At the request of the Chair of the Economics Legislation Committee, Senator Brandis, 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 provisions of the Trade Practices Legislation Amendment Bill (No. 1) 2005, be postponed till the next day of sitting.

Question agreed to.

COMMITTEES

Foreign Affairs, Defence and Trade References Committee

Extension of Time

Senator GEORGE CAMPBELL (New South Wales) (3.41 p.m.)—I move:

That the time for the presentation of the report of the Foreign Affairs, Defence and Trade References Committee on the effectiveness of the Australian military justice system be extended to 10 May 2005.
Question agreed to.

Public Accounts and Audit Committee Meeting

Senator FERRIS (South Australia) (3.42 p.m.)—At the request of Senator Watson, I move:

That the Joint Committee of Public Accounts and Audit be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 16 March 2005, from noon to 1.30 pm, to take evidence for the committee’s inquiry into the review of Auditor-General’s reports.

Question agreed to.

BUDGET
Consideration by Legislation Committees Extension of Time

Senator FERRIS (South Australia) (3.42 p.m.)—At the request of Senator Brandis, I move:

That the time for the presentation of the report of the Economics Legislation Committee on the 2004-05 additional estimates be extended to 16 March 2005.

Question agreed to.

NOTICES Withdrawal

Senator MARK BISHOP (Western Australia) (3.42 p.m.)—I withdraw general business notice of motion No. 98 standing in my name for today relating to the production of documents regarding roadworks near the Anzac commemorative site. I seek leave to make a very brief statement on this matter.

Leave granted.

Senator MARK BISHOP—Earlier today Minister Ellison offered a private briefing to the opposition on this matter. I thank the minister for that offer. As the Australian Democrats and Greens were supportive of the original motion, I would ask that the minister extend to those parties the offer of a briefing if they so desire it. In doing so, may I note very briefly that it is interesting that the government seeks to negate this motion. The motion would have required the government to table a letter. That letter was written last August by the former Minister for Veterans’ Affairs, Mrs Vale, to the government of Turkey and, according to Foreign Minister Downer, the letter requested roadworks be undertaken near the Anzac commemorative site at Gallipoli. There is considerable concern in the Australian community that remains of Australian war dead at Gallipoli may have been disturbed by the roadworks. There is great concern that this government has not done enough to protect Gallipoli from the pressures of tourism. These concerns need to be urgently addressed and, whilst it is disappointing the government has indicated it would refuse to table the letter in question, I do acknowledge the government offered us a private briefing and thank the minister for the courtesy of that.

FOREIGN AFFAIRS: CHINA

Senator BROWN (Tasmania) (3.44 p.m.)—I move:

That the Senate opposes China’s ‘anti-secession’ laws which would mandate the use of military force if the Taiwanese people opt for independence.

Question put.

The Senate divided. [3.49 p.m.]

(The President—Senator the Hon. Paul Calvert)

Ayes............ 7
Noes............ 44
Majority......... 37

AYES

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

NOES

Barnett, G.  Bishop, T.M.
Buckland, G.  Calvert, P.H.
Tuesday, 15 March 2005

Senator Chapman—Mr President, I raise a point of order. Inadvertently, it may have been possible for some senators to have been locked out of the last division. I noticed that when the clock was set on the TV screens, and I assume that was because of the way the clock was set here, it showed a time of five minutes to expire before the doors were to be locked. The sand glass expired, as it would, after four minutes and the doors were locked but there was still a minute showing on the TV screens. I bring that to your attention.

The President—Thank you, Senator.

I understand that a mistake was made. It was set for five minutes. I did not use the timer; I used the hourglass. I will make sure that it does not happen again.

HEALTH INSURANCE: GENETIC INFORMATION

Senator Bartlett (Queensland) (3.52 p.m.)—At the request of Senator Stott Despoja, I move:

That the Senate—

(a) notes that:

(i) on 17 February 2005, the Senate of the United States of America (US) approved unanimously bill S.306, ‘A bill to prohibit discrimination on the basis of genetic information with respect to health insurance and employment’,

(ii) this is the second genetic non-discrimination bill to pass the US Senate,

(iii) despite continuing advances in genetic technology, Australia still has no nationally consistent legislation dealing with genetic privacy and non-discrimination,

(iv) Australia has documented cases of genetic discrimination, and

(v) the Government has not yet established a Human Genetics Commission of Australia as recommended by the Australian Law Reform Commission (ALRC) and the Australian Health Ethics Committee in recommendation 5-1 of ALRC report no. 96, ‘Essentially yours: The protection of human genetic information in Australia’, dated March 2003;

(b) condemns the Government for failing to act on the report; and

(c) calls on the Government to implement the recommendations of the report as a matter of urgency.

Question agreed to.

DOCUMENTS

Tabling

The President—I present a message for Commonwealth Day 2005 from Her Majesty The Queen, Head of the Commonwealth.

PARLIAMENTARY ZONE

Proposal for Works

Senator Ellison (Western Australia—Minister for Justice and Customs) (3.54 p.m.)—In accordance with the provisions of the Parliament Act 1974, I present a proposal for works within the Parliamentary Zone,
together with supporting documentation, relating to the temporary location of a sculpture adjacent to Questacon. I seek leave to give a notice of motion in relation to the proposal.

Leave granted.

Senator ELLISON—I give notice that, on the next day of sitting, I shall move:

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the National Capital Authority for capital works within the Parliamentary Zone, being the temporary location of a sculpture adjacent to Questacon.

COMMITTEES
Privileges Committee

Report

Senator FAULKNER (New South Wales) (3.55 p.m.)—I present the 121st report of the Committee of Privileges, entitled Possible unauthorised disclosure of draft reports of Community Affairs References Committee.

Ordered that the report be printed.

Senator FAULKNER—I seek leave to move a motion relating to the report.

Leave granted.

Senator FAULKNER—I move:

That the Senate endorse the findings at paragraph 1.36 of the 121st report of the Committee of Privileges.

This report involves references relating to the unauthorised disclosure of two separate draft reports of the Senate Community Affairs References Committee. The matter of particular concern to the Committee of Privileges was that each report had been leaked to a favoured journalist before either of them had been considered by the community affairs committee as a whole.

Notwithstanding the potentially serious nature of the disclosure, in the first case only two of the members regarded the issue as so serious that it should be raised as a matter of privilege. Although the second matter was referred on behalf of the community affairs committee, several members, when asked directly by the Committee of Privileges, did not regard the unauthorised disclosure as constituting substantial actual or potential interference with the operations of the committee. These attitudes brought into focus a matter which has concerned the Committee of Privileges for some time: the question whether unauthorised disclosure of committee deliberations and draft reports should be regarded as constituting a substantial interference, thereby constituting contempt of the Senate.

As a consequence, and also because two members of the privileges committee were, because of their membership of the community affairs committee, unable to participate in its deliberations, the committee has decided that it needs to examine the whole question in isolation from consideration of individual cases. For this reason, at the end of my statement in support of the motion I have just moved, I intend to seek leave to give a notice of motion to refer the question to the Committee of Privileges. In the meantime, for the reasons set out in the report, particularly at paragraph 1.34, the committee has decided that it should not find contempts in respect of the matters referred. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

NOTICES
Presentation

Senator FAULKNER (New South Wales) (3.59 p.m.)—by leave—I give notice that, on the next day of sitting, I shall move:

That the following matter be referred to the Standing Committee of Privileges for inquiry and report by 15 June 2005:

Whether, and if so what, acts of unauthorised disclosure of parliamentary committee proceedings, evidence or draft reports should
continue to be included among prohibited acts which may be treated by the Senate as contempts.

**COMMITTEES**

Environment, Communications, Information Technology and the Arts References Committee

Additional Information

Senator BARTLETT (Queensland) (4.00 p.m.)—On behalf of the Chair of the Environment, Communications, Information Technology and the Arts References Committee, Senator Cherry, I present additional information received by the committee on its inquiry into the regulation, control and management of invasive species.

Membership

The PRESIDENT—I have received letters from party leaders seeking variations to the membership of committees.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (4.01 p.m.)—by leave—I move:

That senators be discharged from and appointed to committees as follows:

**Economics References Committee**—

Appointed—Substitute member: Senator Murray to replace Senator Ridgeway for the committee’s inquiry into the possible links between household debt, demand for imported goods and Australia’s current account deficit

**Library—Standing Committee**—

Discharged—Senator Tierney

Appointed—Senator Brandis.

Question agreed to.

**WORKPLACE RELATIONS AMENDMENT (RIGHT OF ENTRY) BILL 2004**

First Reading

Bill received from the House of Representatives.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (4.02 p.m.)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (4.02 p.m.)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

**WORKPLACE RELATIONS AMENDMENT (RIGHT OF ENTRY) BILL 2004**

The Government is committed to continuing a program of workplace relations reform that will improve living standards, increase jobs, boost productivity and enhance international competitiveness.

This bill fulfils an election commitment to reform the union right of entry laws and to exclude the operation of State right of entry laws where federal right of entry laws also apply.

The right of entry provisions in the Workplace Relations Act confer significant rights and privileges on unions to enter workplaces to represent their members. The Government strongly believes that these significant rights must be carefully balanced with the rights of employers and occupiers of premises to conduct their business without undue interference or harassment.

The Government also considers that as far as possible a single statutory scheme should apply across Australia. In workplaces where both federal and State right of entry laws apply, confusion about rights and responsibilities may arise. This uncertainty can leave employers vulnerable to abuse of unions’ statutory right to enter the workplace.

I turn now to the details of the bill.
The bill will amend the Workplace Relations Act 1996 to expand the Commonwealth system for union right of entry and override State systems within constitutional limits. Where the relevant employer is a constitutional corporation or the premises are in a Territory or Commonwealth place, a union will only be able to exercise a right of entry under the new WR Act provisions. It will not prevent a State union from entering premises for purposes relating to State industrial laws. The scheme will allow for unions to continue to exercise existing entry rights under State Occupational, Health and Safety legislation.

The powers conferred by a right of entry permit are significant and wide-ranging. They allow a person to enter premises with a ‘shield’ against trespass. This is a significant right and should only be enjoyed by persons who exercise it responsibly.

The bill contains measures designed to ensure that more appropriate and stringent criteria must be satisfied before a person can be granted a right of entry permit, so that only ‘fit and proper persons’ may be permit holders.

The grounds for suspension and revocation of permits will be expanded.

The Australian Industrial Relations Commission will be empowered to make orders where a union, or an official of a union, has abused the rights conferred on them.

The bill seeks to limit inappropriate union entry and to ensure that entry is less intrusive and disruptive when it does occur. For example, the requirement that a union must have reasonable grounds for suspecting a breach of an industrial law or instrument before entering will operate to prevent ‘fishing expeditions’ by unions which can result in unnecessary and costly disruption to business, while ensuring appropriate access for legitimate investigations.

Permit holders will be required to provide entry documentation to the occupiers of premises. This will assist both parties to better understand their rights and responsibilities regarding union entry. It will also assist employers in being able to determine whether the requirements of the legislation are being complied with.

The bill contains safeguards for permit holders. For example, an exemption from the notice requirements for investigating a breach must be granted if the Industrial Registrar is satisfied that providing advance notice of entry might result in the destruction, concealment or alteration of relevant evidence.

Repeated union entry to the workplace to recruit new members can result in non-members suffering unfair pressure and harassment. Accordingly the bill limits entry for recruitment discussions to once every six months.

To minimise disruption at the workplace, permit holders will have to comply with reasonable requests of the employer regarding the location of interviews and discussions.

The Commission will be given the power to make orders if the request by the employer or occupier of the premises is unreasonable. The bill includes protections to ensure that union permit holders are not hindered or obstructed in relation to the legitimate exercise of rights of entry.

The Government considers that union access to non-member records should be restricted, consistent with less than one in four employees being union members and the role of unions as membership-based service organisations. Unions will only be able to access the records of their members, unless the Commission orders otherwise. Similarly, a permit holder will only be able to enter to investigate a breach of an AWA if they receive a written request from the employee party to the AWA.

The measures in this bill reflect the Government’s continued commitment to improving the current union right of entry framework. By providing clear processes for when permits can be issued and clear procedures for how rights of entry should be exercised, the proposed measures will increase confidence in the right of entry system.

The bill strikes an appropriate balance between the rights of unions to enter workplaces and the rights of employers to carry out their business without unwarranted disruptions.

Debate (on motion by Senator Ellison) adjourned.
BROADCASTING SERVICES
AMENDMENT (ANTI-SIPHONING)
BILL 2004
Consideration of House of Representatives
Message
Message received from the House of Representatives returning the Broadcasting Services Amendment (Anti-Siphoning) Bill 2004, informing the Senate that the House has disagreed to the amendments made by the Senate and desiring the reconsideration of the amendments.

Ordered that consideration of message No. 106 in Committee of the Whole be made an order of the day for a later hour.

BUDGET
Consideration by Legislation Committees
Reports
Senator McGAURAN (Victoria) (4.03 p.m.)—Pursuant to order and at the request of the chairs of the respective legislation committees, I present reports from various legislation committees in respect of the 2004-05 additional estimates, together with the Hansard record of the committees’ proceedings.

Ordered that the reports be printed.

PARLIAMENTARY ZONE
Approval of Works
Senator ELLISON (Western Australia—Minister for Justice and Customs) (4.04 p.m.)—At the request of Senator Colbeck, I move:

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the Department of Parliamentary Services to extend the time for the temporary vehicle barriers to 30 June 2005.

Senator BARTLETT (Queensland) (4.04 p.m.)—I would like to speak to this motion on behalf of the Democrats as a whole but also, perhaps more importantly, on behalf of our staff and others. As you know, Mr President, I have raised this issue before. This motion in effect seeks the right to extend the time that the temporary vehicle barriers are kept up outside Parliament House. They are usually referred to as the oversized white Lego blocks—horrendously unsightly things, as I think we would all agree; certainly, we would all welcome them going as soon as possible. I recognise of course that they are there for security purposes and therefore should not be removed until the security issues are dealt with, which is what this motion goes to, but I do think it is appropriate to take up some of the Senate’s time to comment briefly on matters surrounding this and matters raised in the documentation that was tabled along with the motion.

Basically, the construction of the wall around the outside of Parliament House should be complete by the end of May. As I understand it, that means that the large white Lego blocks will be removed from that area as the wall will meet the security concerns. But they will still be required in other parts of the surrounds of Parliament House until the bollards that are intended to prevent access to the slip-roads going up to the Senate and the House of Representatives entrances are activated. The intent—as was made clear, I should note, when these works were first proposed—was to prevent vehicle access to those slip-roads on the basis of a security analysis that that was too high a risk. I acknowledge that, in that situation, of course the officers of the Department of Parliamentary Services have to act on those security concerns and seek to reduce them to a more acceptable level.

It is always a difficult balancing act, but I have to put on the record that there are still significant concerns about how adequately the new arrangements will work for occupants of this building who are waiting to be picked up, whether by others in a car, by a cab or through other arrangements. As I un-
I understand it, this is not going to apply to parliamentarians: the bollards will retract and Comcars will still be allowed access to the Senate and House of Representatives entrances. But, for all other Parliament House occupants, cars will not be able to get to those areas and they will need to be picked up elsewhere.

I realise these matters are still being considered; a discussion paper will be provided. The aspect that concerns me is that the large white Lego blocks cannot be removed until the bollards are activated, and the bollards will not be activated until issues regarding people being collected from outside parliament are resolved. I am not sure how quickly that will happen. All the proposals I have heard to date seem to be problematic, particularly for disabled access—that is not just for people in wheelchairs but for others who have mobility problems more generally. Requiring them to walk further distances does not strike me as desirable if it can be avoided. Again, I know that this is being done on the basis of a security report and there is a duty of care obligation to all occupants of the building in relation to those matters, but there is also a duty of care for occupants of the building with regard to waiting outside, particularly in inclement weather. As people know, as well as when it is raining, it does get rather cold in Canberra in the evenings for parts of the year. And there are security issues for people waiting outside at night as well.

Firstly, I am not sure whether 30 June will be sufficient time to get those issues resolved. If not, we will need to come back to get a further extension for the use of the large white Lego blocks, and that is a concern. Secondly, I am worried that we are now basically setting up a dynamic where the Lego blocks will remain unless there is agreement reached about activating the bollards and requiring all other building occupants to be picked up elsewhere than immediately outside the entrances. The public focus may well be, and usually is, on the 226 politicians that occupy this building for 15 weeks or so of the year—that is not as many weeks as we should, in my view, but that is a matter for another debate. But there are many thousands of other people who occupy this building, many of them every working day of the year: the different attendants, various staff, the committee secretariats, people in the library, many parliamentary staff and other service staff. All of them occupy this building far more frequently than the parliamentarians do, and I am concerned that their interests are adequately considered as part of these arrangements.

I know it is a difficult balancing act—I know there are difficult issues there—but I think it appropriate to put on the record my concern. I voiced concern some time back, when the authorisation was given to set forth on constructing the wall, that there was no satisfactory resolution to this problem to date. As you would know, Mr President, that is still a matter of contention for many people here. I am not suggesting that I am the only one with this concern but I think it is appropriate to put on the record that it really does need more thought, because I am certainly not convinced that the solutions that have been put forward to date will be workable.

When considering how to balance out those solutions versus security risks, I think perhaps the views of the occupants of the building in the broader sense need to be taken into account a bit more than they have to date. Putting forward discussion papers is good, but the authorisation only extends to the end of June for the large Lego blocks and there was a specific statement that they will not be removed until the bollards are activated—and they cannot be activated until agreement is reached. There is a bit of an
underlying implication that this is all going to be sorted out pretty soon. Obviously I hope it is, but I think, in that context, that time pressure should not be used as a reason to short-cut getting the fullest views possible of the occupants of the building, who, of course, extend much further than the staff of parliamentarians—although they are certainly the ones who have been in my ear about it. There are many other people who occupy this building and provide a magnificent service, as I am sure we would all agree. There are thousands of people who make this a bit of a community of its own, and their interests also need to be considered as day-to-day occupants of this building.

The PRESIDENT (4.13 p.m.)—I have just been made aware that Senator Brown may be introducing an amendment. I would like to say that a discussion paper about access to the side and ministerial entrances will be circulated in the next few weeks. The Speaker and I have given an undertaking that the bollards which are to be installed on the slip-roads will not be activated until access arrangements for people who work here are settled. This issue in itself does not affect the request which has been made here today to extend the deadline for the removal of the last white plastic barriers.

I would like to remind the Senate that, in regard to the issue Senator Bartlett raised about the white barriers, the papers that have been lodged with the Table Office make it quite clear that the majority of the white plastic barriers will be removed by the original deadline—that is, the end of this month. But, because of delays in shipments of certain equipment from the USA, that was beyond the power of the Department of Parliamentary Services. That means that this extension to the end of June has been necessitated. The white plastic barriers will be removed from the front of Parliament House by the end of March, as originally planned. Other barriers will be progressively removed over the following three months. I think I explained about the unavoidable delay at the estimates hearings of the Senate Finance and Public Administration Legislation Committee. The matter has now been considered by both the Senate Appropriations and Staffing Committee and the Joint House Committee, so I was hoping that we could commend that motion to the Senate.

Senator BROWN (Tasmania) (4.14 p.m.)—Thank you, Mr President, for that explanation. The difficulty that arises here is the consultation with the thousands of people who work in the building. While you are flagging a draft plan for visitor access, staff access and indeed members’ access to the parliamentary building after the security walls—28 kilometres of them all told—which are being erected around Parliament House have been completed, the concern that we have is that the thousands of people who enter this building each day on a working day are not aware of those plans and have not been asked for input. It is important that they are.

We have a duty to them to explain, for example, that there has not been a determination about disabled access. My reading of the draft plan is that disabled people will of necessity now have to come from the car park at the front of the building, away from the Senate, ministerial and House of Representatives entrances, and may be able to exit through the Senate entrance but that there will be no approach in the future. This will apply also to people who are not pass holders. It means that all visitors to the parliament will have to come through the main entrance and be met there by parliamentary staff. At the moment there are three entrances which are providing that access. I have seen nothing in the draft discussion paper which shows how the main entrance is going to cope with all non pass holders coming
through it, let alone the traffic of staff of the building going to receive those visitors at the desk and all the consequent signing in that is required.

As far as disabled people are concerned, I see no assessment here, for example, of a lift being placed on Parliament Drive outside the Senate or the House of Representatives entrances so that disabled people with passes will have the same access as everybody else who is a pass holder, so that they can continue to come through the Senate entrance by the alternative of the Senate door rather than having to use the internal lift access. It is very important that these folk be accommodated. That is not detracting from this security measure that is costing $12 million as far as Parliament House is concerned. What concerns me is that the $12 million is being spent so that we can be not alarmed in Parliament House, apparently, but where is the considered accommodation for disabled people or indeed the wider public? How much is that going to cost? Are alternatives that are going to be brought forward to facilitate people coming to Parliament House when the bollards are in place going to be simply dismissed as too expensive?

It would have been reasonable, I would have thought, Mr President, for the committees involved to have made an assessment of the overall cost of these security measures at the outset instead of putting the security measures in place and then finding out how to overcome the problems these create for the efficient and indeed friendly functioning of Parliament House. We should not allow the fear that has swept the world since September 11 to turn this great parliament into a bunker, nor should we allow it to make access more invidious for some members of the public—or some staff, for that matter—than others.

I cannot see in the draft discussion paper where those matters have been canvassed and they ought to have been. I know, Mr President, that you have just talked about what happens before the bollards are activated. For those people who are listening: the walls will go around Parliament House, but bollards are those poles that come up out of the ground to prevent access to the slip-roads which come up to the Senate door, the ministerial door and the House of Representatives door. They are going to be put in place, and you mentioned that they are coming from the United States. Before they are put in place and activated, we ought to have sorted out how people currently using those doors are going to get access to this place. What is abundantly clear from your draft discussion paper is that, if we take the Senate door as one example, only senators arriving in Comcars will be able to use the Senate door through the current vehicular access. When the bollards are in place, the Comcar carrying a senator will approach the Senate door by turning onto a slip-road. The first bollard will be lowered and the car will then proceed and be stopped by a second bollard further up the slip-road. When the first bollard is again raised into place so that nobody can tailgate the Comcar, the second bollard will be lowered and the senator in the Comcar will approach the Senate door. For everybody else it is pedestrian access to the Senate door. For disabled people there is no access to the Senate door under those circumstances. That ought to have been debated.

What I also note here is a determination that it is too costly by and large to have human surveillance of who comes and who goes, that the alternative of having guards at the slip-roads who could raise and lower the bollards is simply too expensive. That worries me. I think the discernment of a guard at such places would make for a much more
efficient approach both by senators and by
the public alike if the public were to be al-
lowed. Of course, on great ceremonial occa-
sions when heads of state or ‘VIPs’ approach
one of the parliamentary doors then special
security arrangements will be available. Peo-
ple will be brought in to judge how and when
they will be allowed to use the slip-roads.

I do not think that adequate thought has
been given to the human dimension. This is
our parliament. By that I mean that this is the
people’s parliament—the 20 million people
of Australia. There has been precious little
debate about how we keep it that way, given
the changed circumstances in the world. One
article referred to how we can best ‘retain
the vision of a sylvan capital city’ that Walter
Burley Griffin gave a lesson on a century ago
in designing this city. That debate should
take place and it should have taken place
before.

By the way, I note that there will be
bombproof antiblast lining at the ministerial
windows, not at the House of Representa-
tives or Senate windows. I guess that indi-
cates that the ministers had a very strong
hand in determining this arrangement. How-
ever, as one who has windows facing the
Senate slip-road, I would prefer that the pub-
lic were still able to come and go, judged by
a guard. I will take the risk rather than have
those roads closed in the way that has al-
ready been effectively determined here. Mr
President, I have an amendment to this mo-
tion, but you will notice that it is not obstruc-
tive. I move:

At the end of the motion, add “and that be-
cause of the impending operation of retractable
bollards on the slip roads, further urgent consulta-
tion be undertaken with occupants of Parliament
House to find an acceptable solution for alterna-
tive access to Parliament House for pass holders
and visiting members of the public, including
disabled people”.

At the moment there is not an acceptable
solution because there is none on the public
record. I heard you say, Mr President, that a
discussion paper will shortly be available. I
recommend that that not just go to MPs but
to every staff member of this place. If we
used the think tank of this parliament,
worthwhile suggestions would come back. I
put it to you that the thousands of staff at
Parliament House, including staff of MPs
who come and go, be canvassed for ideas in
the wake of this plan as to how we overcome
the increased difficulty of future access—not
least by the disabled—to this parliament. The
security needs must be met. Sadly, this is an
example which shows the need for discus-
sions with everybody involved when enor-
mous changes such as this take place in the
functioning of our parliament. After all, it is
the people’s parliament.

The PRESIDENT (4.25 p.m.)—As I said
before you took to your feet, Senator Brown,
the Speaker and I have given an undertaking
that the bollards which are to be installed on
the slip-roads will not be activated until ar-
rangements for the people who work here are
settled. Yesterday, we had a long, extensive
meeting of the Joint House Committee to
discuss these matters. Matters are still to be
resolved and discussions are still taking
place. I believe that this amendment that you
are putting forward pre-empts any decisions
that the Presiding Officers and the Joint
House Committee make.

Question negatived.

Original question agreed to.

BROADCASTING SERVICES
AMENDMENT (ANTI-SIPHONING)
BILL 2004
Consideration of House of Representatives
Message
Consideration resumed.
Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (4.28 p.m.)—I move:

That the committee does not insist on its amendments to which the House of Representatives has disagreed.

Senator CONROY (Victoria) (4.28 p.m.)—Firstly, I indicate some disappointment that the government have taken this position. I would also like to thank all of the minor parties, the Greens and the Democrats and other senators who supported these amendments. They are worthy amendments and it is only through the debate in this place that we have been able to shift the government on some important issues. It is only through your support, Senator Brown and Senator Cherry, that we have made a difference to hundreds of thousands of Australian soccer fans around the country. We have actually got the government to move part of the way to resolving the debacle that they created when they removed the soccer World Cup from the antisiphoning list.

These amendments will ensure that the World Cup soccer will be seen on free-to-air television, something that was in danger because of this government’s decision to delist. The way to absolutely clear this up is for it to be part of the legislation, as we moved by way of amendments. As I said the other day, I take Senator Coonan at her word; she is an honourable woman. Her word would have been enough for me. But a few of her colleagues who supported these amendments and it is only through the debate in this place that we have been able to shift the government on some important issues. It is only through your support, Senator Brown and Senator Cherry, that we have made a difference to hundreds of thousands of Australian soccer fans around the country. We have actually got the government to move part of the way to resolving the debacle that they created when they removed the soccer World Cup from the antisiphoning list.

These amendments will ensure that the World Cup soccer will be seen on free-to-air television, something that was in danger because of this government’s decision to delist. The way to absolutely clear this up is for it to be part of the legislation, as we moved by way of amendments. As I said the other day, I take Senator Coonan at her word; she is an honourable woman. Her word would have been enough for me. But a few of her colleagues are a little bit suss—they do not understand like you do, Senator Coonan, the importance of the soccer World Cup to hundreds of thousands of Australians. So I am disappointed that the government have rejected our amendments. It calls into question their bona fides that they will never delist it in the future. I wish you had had a bit more success there, Senator Coonan, in batting hard against those antisoccer people in the government.

Equally, on the loophole issue, there is again disappointment. This is an issue that will not go away, Senator Coonan. As your own colleagues on the Senate committee said, this is an issue that you need to look at—that is, whether the intent of the antisiphoning list is being undermined either directly or indirectly. I think these are issues that you will need to consider. So, with reluctance, I indicate that Labor will not be insisting on our amendments. But, again, I thank the chamber for supporting our amendments. It has made an important difference in this particular instance.

Senator CHERRY (Queensland) (4.30 p.m.)—The Democrats will not be insisting on these amendments on this occasion either. I would note—and I think Senator Conroy should claim it as a personal victory—the campaigning on the issue of the World Cup soccer. We are very pleased that the Minister for Communications, Information Technology and the Arts has given a commitment to include that in legislation. It is something which has been raised in this chamber on a number of occasions. We accept her statement that this will be included in the antisiphoning list and we look forward to that occurring. I am sure there will be a lot of soccer fans around Australia pleased with that.

With respect to the second set of amendments that deal with the concern that the antisiphoning list contains a flaw in that it allows non-licence holders to acquire rights and thereby get around the issue, I note the government’s argument that there are legal flaws in the argument put by free TV in that it is not possible for such rights to be utilised in terms of being broadcast on pay TV. I also note that the Senate Environment, Communications, Information Technology and the Arts Legislation Committee—even the ma-
jority report of that committee, signed off by government senators—called on the government to ensure that this matter remains under review and that the government monitor very carefully the operation of the antisiphoning list and whether this loophole does exist and does in fact operate in the way that the free TV operators say it does.

I hope that the minister takes on board that advice from the committee. It is very important, particularly given that, over the course of the next two years, the two biggest contracts in sport come up for review—that is, the AFL and the NRL. We would certainly hate to see the football fans around Australia suffer by having less football on their free-to-air television than they do now. I think the government needs to monitor this area very carefully. There is a lot of money in sport and a lot of interest there, and we do have to make sure that the antisiphoning list operates for the objectives that parliament set.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (4.33 p.m.)—I will just make some very brief concluding remarks in response to Senators Conroy and Cherry. The government acknowledges the opposition’s intention in relation to its amendments to this bill. It has sought to add the 2010 FIFA World Cup to the antisiphoning list and to address a purported loophole in the antisiphoning scheme which has been the subject of much debate. However, in both cases, the amendments are unnecessary and have significant additional impacts on the operation of the scheme, as has been outlined in the course of the debate. Accordingly, the government has—I think quite properly—rejected the amendments. The government has consistently stated that it is monitoring the operation of the antisiphoning scheme to make sure that it operates effectively, not just for free-to-air and pay television licensees but also for rights holders and audiences, and it will continue to do so. It will also continue to balance the competing interests inherent in such a scheme.

In adding the 2010 World Cup to the list, the government have responded to calls from audiences and broadcasters. This is the very way that the list is meant to operate. It was always intended to operate as a living document that can respond to changing circumstances. As I indicated in my remarks in the debate last week, the opposition would have changed this approach, with, I think, unacceptable—even absurd—consequences. The issue of the purported loophole has been widely debated, including in the ECITA committee considering the bill. Once again, the government will continue to monitor this issue. At this time, however, we can see no evidence that the antisiphoning scheme or its intent are being undermined—in fact, we have recently seen a very successful operation of the scheme—but, should that evidence be forthcoming, the government will consider the issue afresh.

I also outlined a number of concerns arising from the impact of the opposition’s attempt to address the purported loophole. These concerns demonstrate the significant problems of altering the operation of a scheme that is working effectively—and which is so finelly balanced—in order to achieve what we believe would have been uncertain outcomes on an issue where no problem, at least at this point, has been demonstrated. The amendments would have serious consequences—not merely for pay television licensees but also for the entire television sector. On this basis, I have thought very carefully about these amendments, and I do not believe there is any reason to further delay the passage of the bill. I commend to the chamber the government’s recommendation that the bill be passed without amendment.
Question agreed to.
Resolution reported; report adopted.

BUSINESS
Rearrangement

Senator COONAN (New South Wales—
Minister for Communications, Information
Technology and the Arts) (4.37 p.m.)—I
move:
That intervening business be postponed till af-
ter consideration of government business order of
the day no. 3 (Australian Communications and
Media Authority Bill 2004 and nine related bills).

Question agreed to.

AUSTRALIAN COMMUNICATIONS
AND MEDIA AUTHORITY BILL 2004
AUSTRALIAN COMMUNICATIONS
AND MEDIA AUTHORITY
(CONSEQUENTIAL AND
TRANSITIONAL PROVISIONS) BILL
2004
TELECOMMUNICATIONS (CARRIER
LICENCE CHARGES) AMENDMENT
BILL 2004
TELECOMMUNICATIONS
(NUMBERING CHARGES)
AMENDMENT BILL 2004
TELEVISION LICENCE FEES
AMENDMENT BILL 2004
DATACASTING CHARGE
(IMPOSITION) AMENDMENT BILL
2004
RADIOCOMMUNICATIONS
(RECEIVER LICENCE TAX)
AMENDMENT BILL 2004
RADIOCOMMUNICATIONS
(SPECTRUM LICENCE TAX)
AMENDMENT BILL 2004
RADIOCOMMUNICATIONS
(TRANSMITTER LICENCE TAX)
AMENDMENT BILL 2004

RADIO LICENCE FEES AMENDMENT
BILL 2004
Second Reading
Debate resumed from 7 March, on motion by
Senator Hill:
That these bills be now read a second time.

Senator CONROY (Victoria) (4.37
p.m.)—The Australian Communications and
Media Authority Bill 2004 and related bills
represent a belated and inadequate response
from the government to the regulatory issues
posed by the process of convergence. How-
ever, the ALP will support the bill insofar as
it goes, subject to a small number of amend-
ments. While the bill fails to make many of
the reforms necessary to effectively deal with
the challenges of convergence, the minor
changes it does contain should be beneficial
and have already been delayed long enough.

The bill is primarily a response to conver-
gence. Convergence is the long-recognised
process whereby digitisation and other tech-

nological innovations blur the boundaries
between the delivery mechanisms available
for services. As a result of convergence, con-
sumers now have a multitude of ways in
which to access telecommunications and
media services. Today, a person wanting to
speak to a friend can choose whether to dial
from a fixed line telephone, pick up a mobile
phone or have the conversation over the
internet through voice over internet protocol.
A person wanting to read the morning news
could pick up a newspaper, turn on a PC to
log on to the internet or get up to date using
their mobile phone. A person wanting to fol-
low their favourite sports team could watch
highlights of the game on television, satellite
subscription TV, cable subscription TV,
broadband internet or a 3G mobile phone.
The permutations of the ways in which ser-
vices can be delivered to end users will un-
doubtedly continue to multiply with ongoing
technological progress. These new methods
of delivering services have been actively pursued by companies around the world keen to develop innovative ways to service their existing customers and create fresh markets for new customers.

However, as well as increasing commercial options for suppliers and choice for consumers, convergence has also placed pressure on existing regulatory frameworks. Regulatory distinctions based on the method by which a service is provided rather than the substance of the service have become increasingly antiquated and inefficient. As regulatory distinctions of this kind are relatively common in the Australian regulatory regime, reform is needed. Delaying reform or employing bandaid solutions will inevitably result in the distortion of the development of markets for convergent technologies. Businesses that are confronted with regulatory uncertainty as a result of being forced to apply outdated and inflexible legislation to new technology will be discouraged from commercialising that technology. As a result, some innovative, commercially viable services may be denied to consumers merely because of an outdated regulatory regime that imposes inappropriate burdens on the service. Conversely, other new services may receive inappropriate levels of investment because of regulatory advantages they possess in the marketplace as a result of existing regulation failing to extend to the new service. These inefficiencies will harm not only the Australian consumers but also the competitiveness of Australian companies’ global marketplace for convergent technologies.

This is obviously not a good outcome for the Australian communications sector. The prospect of these problems should not, however, have come as a surprise to the government. The Senate inquiry established by the ALP and the Democrats to investigate the bill heard evidence from the Australian Consumers Association that the problems that convergence poses have been apparent for 10 years if not 15 years. Further, the governments of other countries recognised these issues and took concrete steps to address them long before the Australian government turned its mind to legislative reform. The government of Singapore created the Info-comm Development Authority through a merger of a number of government bodies in 1999 with the specific objective of more adequately dealing with the issues of convergence. The United Kingdom commenced a similar process in the same year and ultimately merged a number of its communications regulators in 2002 to form Ofcom. However, instead of following the lead of these countries, the Australian government has delayed implementing serious legislative reform. The government’s pace of reform on this issue has been glacial.

The government has considered the issues associated with convergence in not one but two discussion papers: ‘Options for structural reform in spectrum management’ in 2002 and ‘New institutional arrangements for the Australian Communications Authority and the Australian Broadcasting Authority’ in 2003. However, instead of implementing legislative reform, the Australian government has delayed implementing reform until convergent technologies have actually arrived. Instead of proactively preparing the Australian communications sector for convergence, the government has prevaricated until the shortcomings of the existing regime have become obvious. It is only now that 3G phones and VOIP systems are commonplace that the government has been forced to act.

The committee established to review this legislation heard from the Australian Consumers Association that:

... Australia has erred on the side of delay, and the changes proposed in the creation of ACMA are belated and do not sufficiently address the imperatives in the marketplace.
This delay has led to inefficient overlaps in regulation and regulatory responsibility in some areas, and gaps in regulation in others. It has led to some services being subject to regulatory burdens disproportionate to the substance simply due to the form of the technology that was used to provide it. The committee also heard evidence that the government’s delay has resulted in ‘weird interim regulatory responses’ and a ‘poorly coordinated’ reaction to new technologies.

The committee heard that the government’s lack of leadership had led to the ACA and the ABA taking a reactionary approach to dealing with the new technologies. The Competitive Carriers Coalition stated:

The ACA has increasingly been seen as a follower rather than a leader in terms of regulatory guidance and oversight. This has caused significant duplication and regulatory burden on the industry as a whole.

Areas that have particularly suffered as a result of the government’s reactionary approach have been mobile content and voice over internet protocol telephony. With respect to mobile content, there has been significant regulatory duplication by the ABA and the ACA in their response to the emergence of this convergent service. Both organisations, as well as industry participants, expended significant resources considering the regulatory issues involved with the emergence of mobile content. Both organisations subsequently produced rules addressing separate aspects of mobile content regulation. This issue clearly should have been dealt with by a single body in order to avoid the unnecessary doubling up of activity—by the ACA and the ABA—and the burden on industry in having to comply with two regulatory regimes.

In relation to VOIP, the Senate Environment, Communications, Information Technology and the Arts References Committee heard evidence that the government’s response had been poorly coordinated and required industry participants to respond to separate inquiries from the Australian Communications Authority; the Department of Communications, Information Technology and the Arts; the Australian Competition and Consumer Commission; and the Australian Communications Industry Forum. Understandably, having to deal with a multitude of organisations, essentially asking the same questions, placed a significant compliance burden on industry participants. This lack of coordination clearly demonstrated the inability of the current regulatory regime to deal efficiently with convergent technologies.

The need for reform has been clear for some time. Despite that, the ACMA Bill constitutes the government’s first attempt to deal with these changes. Unfortunately, instead of making the changes necessary to the underlying regulatory regime to deal with convergence, the bill constitutes a superficial makeover of the government’s regulatory approach. The ACMA Bill provides for a purely administrative merger of the Australian Communications Authority and the Australian Broadcasting Authority to form the Australian Communications and Media Authority. As this is an administrative merger, the ACMA Bill makes only minor amendments to the existing regulatory frameworks for telecommunications and media.

Labor supports the merger, as the formation of a single authority to regulate the communications sector will allow for a more holistic response to the challenges of convergence in the future. However, the pursuit of a purely administrative merger by the government is an entirely inadequate measure and represents a significant missed opportunity. As was pointed out in evidence given to the committee, joining the ACA and the ABA at the top without engaging in reform of the underlying legislative regime will result in a conjoined rather than a merged regulator.
The bill gives no consideration to the appropriateness of the existing legislative arrangements in accommodating the challenges of convergence. Much legislation in the Australian communications sector is still largely technologically specific and will only become more anachronistic as the pace of convergence increases. Examples of areas in which existing legislation draws potentially unwarranted technological distinctions include spectrum management, consumer protection, ministerial direction powers and content regulation.

In many cases it is not the uncoordinated approaches by separate regulators but the inconsistent objectives and technologically specific provisions contained in the underlying legislation that have caused the inefficiency. As such, legislative reform, rather than simply administrative reform, is necessary. The need to engage in a wholesale review of the underlying legislation, in addition to the merger into ACMA, was recognised in the majority of submissions made to the committee. The committee heard that, as the bill currently stands, ACMA’s response to convergence will be limited by legislative constraints. The Media, Entertainment and Arts Alliance commented:

It is difficult to see how the new authority will be better placed to take a strategic view of the wider convergence issues in the absence of the policy review that is so critically needed.

The Communications Law Centre commented that it would have been ‘preferable to address substantive reform at the time of the enabling legislation’. Without reform, ACMA will merely continue to apply the outdated and inflexible existing regulatory regimes and to develop ad hoc and reactionary subordinate instruments to deal with those regulatory pressures. ACMA will still be forced to use exemptions, determinations and other subordinate instruments to bend the existing regime to accommodate new convergent technologies.

The committee heard evidence that the best way to deal with the pressures posed by convergence is to aim for a legislative framework that is outcome focused and draws technological distinctions only when it is explicitly justified. The ACMA Bill does nothing to bring the Australian regulatory regime closer to this position. The failure of the government to reform the underlying legislation defers yet again the government’s response to convergence and represents a missed opportunity in the context of the bill.

At the end of the day, after half a decade of waiting for the government’s response to convergence, the result is nothing more than a clayton’s merger. The bill is the product of a government that thinks it is just all too hard. The bill, instead of outlining a strategy for dealing with the challenges of convergence, places on the bureaucrats the onus of dealing with the issues. The bill, instead of addressing the issue head-on, hopes that the problem will go away. The bill gives participants in the communications sector absolutely no guidance as to how the government believes innovative convergent technologies should be treated in principle.

In the final analysis, the ACMA Bill is devoid of a vision for the development of the Australian communications regulatory environment. In addition to the fundamentally inadequate premise of the bill, Labor has a number of concerns about the way the bill anticipates that the merger will be implemented. The first concern the ALP has about the bill is that the explanatory memorandum and the comments of the previous minister for communications indicate that the merger will be revenue neutral. The ACA-ABA merger will be the first merger of two organisations in history that will not result in any cost savings. The fact that the govern-
ment cannot manage any cost savings—as a result of a merger that will integrate finance, human resources, IT support and other functions—is a significant organisational failure. The committee heard evidence that the failure wastes both taxpayers’ and industry participants’ money, as ACMA’s telecommunications functions are funded by money raised through carrier licence charges.

Our second concern is that allowing ACMA to divide itself into divisions and retain the existing bureau offices of the ACA and the ABA will result in an internally divided regulator that does not realise the potential benefits of the merger. The organisational and geographic divisions envisaged by the bill run the risk of creating a situation in which ACMA divides itself along the delineations of the legacy regulators. Such an arrangement would undermine the objectives of the merger and destroy many of the regulatory efficiencies sought by this bill. While we ultimately do not consider that legislative amendments are the best way to prevent this situation arising, we call on the government to liaise with ACMA to attempt to ensure that this situation does not arise.

Labor also have a number of concerns that we will be moving amendments to the bill to rectify. The first amendment that we will be moving jointly with the Democrats addresses the concern that I have already expressed regarding the government’s failure to consider the need for reform of the underlying legislative regime. This amendment requires the minister to undertake a review of the adequacy of the underlying legislative framework in accommodating the challenges posed by convergence within 18 months of the formation of ACMA. The amendment largely reflects the statutory review provided for in the United Kingdom when it created its merged regulator, Ofcom. You will remember that we heard a lot this week from Senator Coonan and the government about Ofcom having the right model for the future in a whole range of areas. One of the reasons they have that is that they have some decent and proper scrutiny, so let us take a leaf out of the UK example. The amendment is not onerous and we would consider it to be the bare minimum that the government should commit to in order to respond to convergence.

Labor will also be moving two amendments designed to increase the transparency of ACMA. The first amendment addresses the process that ACMA must follow in dealing with a conflict of interest on the part of an ACMA board member. Where an ACMA board member has disclosed a conflict of interest in relation to a specific matter and the board has allowed that member to continue to act on that matter, the amendment will require that it be publicly disclosed. This amendment is designed to avoid the outrageous situation that recently arose in relation to the conduct of the former Chair of the ABA, Professor David Flint. This is a bloke who still does not get it. He is still railing about it today: the unfairness and the injustice of it all. He did not understand the meaning of the words ‘conflict of interest’, and ultimately his own board was so embarrassed by him that he walked the plank. So let us get it all out in the open. The amendment is designed to ensure that, in situations like this, conflicts are brought to light more quickly than has been the case in the past.

Labor’s second amendment requires ACMA to include in its annual report details of the number and types of complaints received by ACMA concerning alleged breaches of the Broadcasting Services Act and related codes of practice. This amendment is designed to bring ACMA’s broadcasting reporting requirements more closely into line with its telecommunications reporting requirements and to increase the transparency of ACMA’s activities. The commit-
tee heard substantial evidence that to date the ABA has not taken effective enforcement action in response to complaints about alleged breaches of broadcasting regulation. This amendment is designed to increase the transparency of the ABA’s enforcement activity in order to better hold it accountable to its regulatory responsibilities. Labor considers that these amendments, while not substantial, will increase the accountability of ACMA to the public.

Finally, we note that the inquiry by the Senate committee into the ACMA Bill also raised a number of questions about the broader telecommunications regime. In this regard, the ACMA Bill is a worrying sign of things to come from this government. The bill fits into a long line of regulatory cop-outs from this government in the communications sector. While not directly within the scope of its inquiry, the committee heard much evidence from industry participants concerning the ineffectiveness of the telecommunications competition regime.

The Labor Party is concerned that this bill demonstrates what the country can expect when it comes to the regulatory reforms necessary when the Telstra sell-out begins. No doubt the government’s response to privatisation will be more of the same as we have seen here. On current form we can expect the government to avoid making the tough decisions for telecommunications regulation. We can expect the government to privatise and hope that it all turns out okay down the track—privatise and hope that the bureaucrats can work out how to control the 900-pound gorilla the government has just let out of its cage. Of course, when the government brings this lazy policy approach to privatisation, the result will not be something marginally better than the status quo, as will result from this ACMA Bill. Instead, when the government privatises without taking the tough decisions on the regulatory reform required to accommodate a fully privatised Telstra, the result will be a catastrophic disaster for competition and consumers. That being said, the Labor Party will support the legislation.

Senator CHERRY (Queensland) (4.57 p.m.)—I rise to speak on the Australian Communications and Media Authority Bill 2004 and related bills before us, which merge the functions of the Australian Broadcasting Authority, the ABA, and the Australian Communications Authority, the ACA, into a new authority with a new acronym, the Australian Communications and Media Authority, or ACMA. The idea of merging the ACA and the ABA was first contemplated by the Productivity Commission in its report on broadcasting back in April 2000. In 2003 the government released a discussion paper focusing on the key issues that would need to be addressed if the two bodies were merged. In the paper the government argued:

The case for merging the two communications regulators arises from developments that have been occurring in the communications environment over the past decade. Digital technologies are reshaping communications industries. Previously distinct sectors now compete across increasingly convergent markets using a range of different delivery platforms.

The convergence of communications technologies and markets is placing growing pressure on the current regulatory institutional arrangements. In Australia, different components of the same industry are currently subject to regulation by two different agencies.

Yet this package of bills, whilst achieving the administrative merger of the two authorities, makes minimal changes to the existing regulatory arrangements. It is very much of an administrative nature.

In December last year I moved—and I thank the Labor Party for its support at the time—to establish a Senate inquiry into this
bill to examine the powers and the effectiveness of the proposed regulatory body. The Senate Environment, Communications, Information Technology and the Arts References Committee considered the proposal and took evidence from 24 organisations over two days. It came to the conclusion that, whilst the proposed merger of the two authorities was welcomed by most of industry and consumer bodies, there were some major concerns.

There was deep concern that the government had failed to deal with the underlying problems of holes in the regulatory frameworks of both the ABA and the ACA as they currently exist. The committee found that the two regulators were perceived not to have sufficient pro-consumer focus in terms of their attention. It also found that 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.

The ACMA, to some extent, is modelled on the British super-regulator Ofcom, which was established two years ago from the merger of five regulators in media, broadcasting and telecommunications. Yet Ofcom, as a model, has ended up with powers far greater than those proposed for the ACMA. In establishing Ofcom, the UK government saw the need for the new regulator to be able to undertake its regulatory duties effectively. Its white paper said:

> It is important that OFCOM has sufficient powers to carry out its duties. It has to be able to take tough action when necessary and to ensure that regulated companies take the action which is required of them.

As the committee report notes, the Blair government’s vision for Ofcom was that the new regulator was to be significant in creating a dynamic market. The necessary powers were outlined in the white paper. In particular, the white paper said:

> OFCOM will have concurrent powers with the OFT to exercise Competition Act powers for the communications sector.

> OFCOM will also have additional sector-specific powers to promote effective competition in the communications services sector for the benefit of consumers.

For most providers of services, the sector-specific rules will cover only the essential issues such as consumer protection, access and interconnection. Stronger sectoral competition rules will, however, be applicable to companies having significant market power.

The white paper talked about the need for a spectrum management framework and the need to ensure that health and environment issues were properly reflected in the regulatory framework, particularly in relation to communications structure.

I have now chaired three Senate inquiries that have all touched on the regulation of the telecommunications sector, and all have found that the regulatory system is sadly inadequate. In all three inquiries we have heard evidence that competition has not developed far enough. I am reminded again of the 2001-02 telecommunications report of the ACCC which concluded:

> Evidence given to the Senate inquiries suggests that Telstra’s market power stifles

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competition and challenges the regulatory regime, which is not adequately equipped to deal with that market power. The effect is to deter infrastructure investment, to suppress the take-up of broadband services and to produce prices for broadband other telecommunications services which are higher than in many other OECD countries.

The Senate committee report into this bill noted that in the current self-regulatory landscape the competition model has demonstrated that it cannot, alone, deliver on issues such as regional equity, community equity of basic services within a region and national competitiveness in terms of advanced infrastructure deployment. Many witnesses, both in the recent inquiry and in previous inquiries into telecommunications, argued that structural problems in the telecommunications market rendered regulation largely ineffective. Telstra is one of the most vertically integrated telecommunications carriers in the world and the only government owned provider with a stake in pay TV in addition to its holdings in mobile phones, landlines and, of course, advertising through Sensis.

The Democrats have been calling for Telstra to, at a minimum, divest its share in Foxtel and for the government to commission research into structural separation to once and for all determine the merits of structural separation in our current environment. I note the continuing comments from Senator Coonan that she recognises the benefits of at least some operational separation of the wholesale and retail aspects of Telstra, at least to the extent that that has already occurred with BT.

The Australian Consumers Association has questioned the effectiveness of the regulatory approach of self-regulation in the current environment. It says:

The regulatory approach taken to instil competition into the telecommunications market of Australia seems only to have advanced sufficiently to diagnose what would work better.

The view of the association is:

... Australia may have reached the end of what can be accomplished by extending and enlarging the regulatory apparatus in telecommunications. It is trying to manage access to the infrastructure of a huge, vertically integrated incumbent supplier that retains near monopoly control over essential and pivotal infrastructure. This incumbent wields superior power to the regulator in political and economic terms.

Clearly, what is needed here are structural solutions to competition and structural solutions to that market power. That is something that the government continues to shy away from. To paraphrase the Minister for Finance and Administration, Senator Minchin, the government appears to be intent on having a maximum price for Telstra in a future float. It is unfortunate that the issues of competition and the best outcomes for telecommunications policy play second fiddle to maximising the price in terms of the return to government from selling an intact, integrated monopoly supplier.

The committee inquiry also found that there needs to be a closer working relationship between the ACMA and the ACCC. We found 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 frequently feeds and determines the other. As I said earlier, the ACMA is modelled on Ofcom, yet it does not have the same consumer emphasis that is present in Ofcom in the United Kingdom. Ofcom has a content panel which deals with issues of broadcasting standards, ensuring that there is community input into those standards. In addition, it has a consumer panel to keep that emphasis on consumer issues to the forefront of its think-
ing. Most importantly, it has a strong mandate from the parliament to regulate communications in the interests of consumers. That is what the committee found was very much missing from the ACMA Bill and was probably the worst flaw—that lack of emphasis on consumer outcomes.

The committee report noted that, at present, the interests of consumers are poorly recognised in both the Telecommunications Act and the Broadcasting Services Act. The evidence highlighted a number of problems in the areas of legislative recognition, industry codes, funding for consumer participation and community awareness, and the need to develop a simplified consumer complaints process. The Australian Consumers Association argued that, historically, both the ABA and the ACA have a poor record in dealing with consumer issues. I note that the Acting Chair of the ACA, Dr Bob Horton, acknowledged that before the committee. In his evidence, he said:

While I think we have made great strides in achieving the objectives of industry self-regulation, certainly in operational codes and technical matters, we have in a way left consumers some distance behind us and we have sought to make up some of the distance over the last 18 months or two years.

I acknowledge that the ACA has been seeking to engage with the consumer sector, commissioning a large report from a consumer panel on ways to improve that consumer focus. The report, Consumer driven communications: strategies for better representation, is currently being considered by its board. I commend that report to the ACA board. If the recommendations in the report were taken up, it would improve quite a number of the issues that people have had with the ACA in the past. Many of the recommendations in that report are of a legislative nature in trying to get a better balance between self-regulation by industry on the one side and promoting better consumer outcomes on the other side. In the committee stage, the Democrats will be moving a series of amendments to make the regulation of telecommunications much clearer.

The Communications Law Centre, in their submission to the Senate inquiry, argued:

... self-regulation is effective and appropriate in some circumstances, while in others a stronger emphasis on compliance and enforcement is called for.

They said that we needed to refine the legislative process and to provide strong signals to the regulator about what parliament expects in terms of a better balance as to when self-regulation is appropriate and when the consumer protection regime needs to take precedence. The committee recommended that section 4 of the Telecommunications Act be amended to remove the strong preference for self-regulation and to state more clearly that the regulatory policy is very much in favour of promoting the interests of consumers. We also suggested that the revised section should make it clear—and I will be moving an amendment to this effect in the committee stage—that telecommunications should be regulated in a manner that promotes the use of industry self-regulation where this will not impede the long-term interests of end users and will enable the objects mentioned in the act to be met in a way that does not impose unnecessary financial and administrative burdens on participants in the Australian telecommunications industry.

I will also be moving an amendment to ensure that at least one member of the ACMA board has a background in consumer advocacy and representation. It is time that consumers were put first and foremost in the regulation of telecommunications and broadcasting. It is time to ensure that the enforcement of standards and consumer protection are much more to the forefront of our regula-
tors. We have been experimenting with self-regulation in this country for a very long time—since 1991 in broadcasting and since 1997 in telecommunications. We know the experience. We know what works in the regulation of technical issues and codes of operation. We know what does not work in relation to complaints to the Australian Broadcasting Authority and the Australian Communications Authority. We know that it does not work in the roll-out of structure, as we have seen under the wing of the Australian Communications Authority since 1997. Almost every year Telstra has progressively reduced its spending on infrastructure investment as a percentage of revenue. Australia’s telecommunications providers now invest a lesser percentage of their revenue in infrastructure than probably most OECD countries that I have looked at.

When we look at the ACMA bill and at what the government has proposed for it, the merger of this organisation without a change to its underlying powers represents very much a lost opportunity. That lost opportunity arises because we have failed to look at and fix the flaws that we know exist in the current regulatory system. We have failed to ensure that ACMA does address the issues of convergence that are emerging by looking at these things in a holistic way in a strategic review over the next two years. That is something that Ofcom is currently in the process of doing, and it is something on which Senator Conroy and the Democrats will be moving a joint amendment, to establish a strategic review to look at the role of the regulators in a converging communications market and how those new challenges would best be met by the regulators.

I would like to conclude by quoting a statement to our committee by the Media Entertainment and Arts Alliance. It said:

Such a merger [between the ACA and ABA] would provide the opportunity to be more than simply an administrative change. It offered the opportunity for functional change and for an audit of the existing regulatory framework for communications and broadcasting. Unfortunately, what is now occurring is simply an administrative change. Whilst a merged regulator will be better placed to have an overarching view of the economic, social, cultural and technical policy issues confronting Government and the industries it regulates and be able to better serve the general public, the broader opportunities that the merging of the two regulators offers are being overlooked.

That sentiment was reflected by a number of witnesses from industry and consumer groups, and that is why we will be moving to have that strategic review and to try to get some of those synergies working better in the future.

The ACMA finds itself regulating a range of services that are absolutely vital to the national security and economic and social development of Australia. Australians are increasingly relying on e-commerce, e-health and e-banking. For many businesses, especially small businesses, efficient and effective communication systems are critical. For example, high-speed internet access is essential for successful engagement with the modern economy and the modern society. A cost-effective, reliable communications system is especially critical for Australians living in regional areas, where the tyranny of distance, isolation and lack of services can be overcome to some extent through modern technology.

It is critical for the future prosperity of Australia that we get it right. I urge the government, as a very first step, to consider the amendments which I will moving in the committee stage, because at least they send a strong message from this parliament to the new regulator that it is in the business of regulating for the interests of consumers and end users, not for the interests of industry and media moguls. That fundamentally must be what we are about in this place. We need
to send a very strong message to the new regulator about exactly what we want it to do. We need to send a message that, whilst this is primarily an administrative merger, and whilst at this stage we are not proposing radical changes to the powers of the regulator, we want it to exercise those powers in a way that benefits consumers far more than the system has to date. That would be a strong message, and that is the message that the amendments which I will move in the committee stage will seek to send.

I wish to note in conclusion that the government advertised for expressions of interest for the position of ACMA chair on Saturday. As a senator who was dealing with this legislation I found this passing strange, because the legislation is not yet through parliament. Whilst the Democrats and the Labor Party have made it clear that we do support the establishment of ACMA, I do find it inappropriate every time the government—whether it be this government or the previous government—pre-empts decisions of parliament by spending public moneys on advertising or promoting particular initiatives which have not yet been passed by the parliament. I would certainly hope that the government—whether it be this government or the previous government—pre-empts decisions of parliament by spending public moneys on advertising or promoting particular initiatives which have not yet been passed by the parliament. I would certainly hope that the government has not engaged in any excessive expenditure ahead of the formation of the authority with the passage of this legislation through the Senate. I would hate to think that the government shows such contempt for the Senate’s processes that it assumes a fait accompli and starts spending moneys before the Senate has had time to adequately and properly consider these matters.

Debate (on motion by Senator Ellison) adjourned.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (5.16 p.m.)—I was previously addressing the Senate in reply to the second reading debate on the Administrative Appeals Tribunal Amendment Bill 2004 [2005]. I place on the record the appreciation of the government for the work of the members of the Legal and Constitutional Legislation Committee, who completed the inquiry into this bill. As I mentioned earlier, the government has taken on board a number of their recommendations.

Today’s debate is important because it is about ensuring accountability and efficiency in government administrative decision making. Since it commenced operation almost three decades ago, the Administrative Appeals Tribunal has provided fair, impartial prompt and relatively cheap access to review of government decisions. The Administrative Appeals Tribunal has a longstanding, well-earned reputation for excellence. Organisations which enjoy such a reputation for excellence do so because they are committed to a program of continual improvement. The Administrative Appeals Tribunal Amendment Bill 2004 [2005] will build on the tribunal’s reputation for excellence.

As the Senate committee’s report notes, most submissions to its inquiry endorsed the initiative to update the tribunal and expressed support for those provisions of the bill that aim to improve the review process. The bill contains a range of significant reforms, including a number which have been proposed by the tribunal itself. These reforms do not involve a fundamental change to the purpose, structure or functions of the tribunal. Rather, they build on the tribunal’s experience of almost 30 years of operation to make the tribunal more efficient, more flexible and more responsive to the ever-changing environment in which it operates. The government believes these changes will assist
The tribunal to better respond to the needs of users.

The committee’s report made six recommendations in relation to certain aspects of the bill. Two recommendations support the passage of the bill subject to acceptance of other recommendations. The government has considered all the recommendations carefully and accepts three of the four recommendations for change to the bill. The recommendations which the government accepts are as follows: recommendation 1, which is for the continuation of the requirement that the president of the tribunal must be a Federal Court judge; recommendation 3, which is for the provision of guidance as to the circumstances under which the president should exercise the power to remove a member and reconstitute a tribunal in the interests of justice; and recommendation 5, which recommends that the minister should consult with the president before making or altering any assignment of members to divisions of the tribunal. The government will be moving in the committee stage amendments to implement these recommendations.

The government does not accept recommendation 2, which is concerned with the time period for appointments. In particular, the government considers that setting a legislative minimum term of three years for appointments is unnecessarily rigid. It could impair the ability to make appointments in particular circumstances to allow the tribunal to respond flexibly to peaks and troughs in its workload. There is no need for such a restriction. Such a restriction is not present in relation to appointments to other federal merits review tribunals.

This is a very important bill. It is there as a safeguard for all Australians who are the subject of government administrative decisions. It is therefore very important that we keep the tribunal up to date in response to its ever-changing environment. There are a number of amendments proposed for the committee stage. I note that the opposition and the Democrats have amendments, and I have alluded to the government amendments. I will not canvass those in detail but I thank again senators who have contributed to this debate. I commend the bill to the Senate.

Question agreed to.

Bill read a second time

In Committee

Bill—by leave—taken as a whole.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (5.21 p.m.)—by leave—I move government amendments (1) and (3) on sheet QS296:

(1) Schedule 1, item 15, page 5 (lines 13 to 26), omit subsections (1) and (1A), substitute:

President

(1) A person must not be appointed as the President unless he or she is a Judge of the Federal Court of Australia.

(3) Schedule 1, item 27, page 8 (before line 1), before note 1, insert:

Note 1A: The following heading to subsection 10(1) is inserted “Acting President”.

We also oppose schedule 1, item 26, in the following terms:

(2) Schedule 1, item 26, page 7 (lines 13 to 16), TO BE OPPOSED.

The reason I wish to debate these amendments cognately is that they all relate to the same issue. Government amendment (2) is consequential on (1) and (3). At the outset, I table a supplementary explanatory memorandum relating to the government amendments to be moved to this bill. The memorandum was circulated in the chamber on 15 March 2005.

In relation to government amendments (1), (2) and (3), I can advise the committee that these amendments will delete new subsection 7(1) and subsection 7(1A), which
were proposed to be inserted by item 15 of schedule 1 of the bill. The Senate Legal and Constitutional Legislation Committee’s recommendation 1 was that subsection 7(1) of the Administrative Appeals Tribunal Act should not be repealed. That recommendation of the Senate Legal and Constitutional Legislation committee states:

The Committee recommends that the Bill be amended to retain the requirement that the President of the Administrative Appeals Tribunal must be a judge of the Federal Court of Australia. That is, subsection 7(1) should not be repealed.

The government amendment has the effect of restoring the current subsection 7(1) of the Administrative Appeals Tribunal Act but with a drafting change of the word ‘shall’ to ‘must’. This means that the current requirement for the president to be a Federal Court judge will be retained in the act.

Amendment (2) omits a consequential amendment to subsection 10(1) of the Administrative Appeals Tribunal Act. That section deals with the appointment of an acting president. The amendment which is to be deleted would have inserted a reference to ‘persons qualified to be appointed as president’, consequential on the proposed new subsection 7(1). The amendment is no longer necessary as the government has not proceeded with the change to the qualifications for the president.

Government amendment (3) is a drafting matter. It inserts a new heading for subsection 10(1) of the Administrative Appeals Tribunal Act: ‘Appointment of an acting president’. The new heading was to be inserted with the amendment to subsection 10(1) now omitted. These amendments are interrelated. Government amendments (1) and (3) will be dealt with together and amendment (2) will be dealt with separately and in a different manner. We believe that these amendments respond to the committee’s concerns and, as I have outlined previously, they are appropriate.

Senator LUDWIG (Queensland) (5.25 p.m.)—Labor is pleased that the government has backed down in the face of overwhelming opposition to the changes that were proposed in the original Administrative Appeals Tribunal Bill 2004, particularly in relation to the presidency. I think it is a significant step forward for the government to adopt the position that was recommended by the committee report and advocated by the shadow Attorney-General. It is a significant step forward in that it maintains the status, the role and the perception by outsiders of the AAT. It ensures that people can believe that the AAT is an important tribunal.

The Administrative Appeals Tribunal acts as an appeal mechanism against matters that have been brought to government to review internal mechanisms and the like. In a broader sense, it allows people who have veterans’ issues or other issues with Centrelink to be able to say, ‘If we are not happy with the government’s decision, we have a body that we can appeal to and say, in a relatively informal and quick process, that the decision was not right and it was not the position that should have been adopted, for argument’s sake, and that there is a preferable decision that the tribunal should take in this instance.’

People are encouraged by that process. They think that they are going to be heard, that it will be independent of government and that they will be able to have their day in court, as many say—although, as we know, it is not a court but a tribunal, but I think people regard it as having their day in court. They are able to have their appeal heard and they go away satisfied—some more than others. The appeals are either successful or unsuccessful, as the case may be, but they at
least have the knowledge that they were heard and that they got justice in that respect.

Labor have continually voiced our strong concern about this aspect of the original bill. In the face of opposition from all submitters, I think the government could have pursued this in this last sitting week before we break until May, but it saw that a more sensible position had been put forward by the committee and it has adopted some of the recommendations. We are disappointed, however, that the government has not accepted recommendation 2 of the committee report—that the AAT members be appointed for a minimum term—but I will come to that later. We will continue to agitate for that matter to be heard and we will move amendments to give effect to what we think is an important bulwark for democracy and for the independence of the tribunal.

Labor are also concerned about the working of the government amendment clarifying when the president has discretion to reconstitute a tribunal in the interests of justice. We do not believe that this adequately addresses our concerns and those raised by the Senate committee. We do not think that the government is trying to be half-smart about this. The government has tried to address it in a broad way, but when we look at it we are not convinced that it can actually achieve the purpose that it was designed for.

In terms of amendments (1), (2) and (3)—save, I understand, for amendment (2), which has to be dealt with differently because of the way it works—Labor will support the amendments. Labor has always held the view that the downgrading of the AAT president should not be allowed. The independence and the status of the AAT president must not be compromised. From the start, Labor has been concerned that the government’s bill goes too far. It could go so far as to be perceived in some quarters as politicising the AAT such that it becomes an apparent arm of the executive or of government.

These amendments vindicate Labor’s position. They are sensible and they ensure that the position is tenured and that the president will be sufficiently independent from the government. That means that the president will be able to have and maintain actual and perceived independence in their decision-making capabilities. Labor will therefore support these amendments as they go a long way to addressing our concerns and the concerns expressed by the Senate committee.

Senator GREIG (Western Australia) (5.30 p.m.)—I largely support the comments of Senator Ludwig in commending the government for listening to the committee on this occasion. It is a good illustration of how Senate processes can be effective and how the government can show itself to be cooperative. I am turning my mind briefly to the aspiration that that might continue to be the case in the latter half of the year—that is assuming we continue to enjoy an objective, robust Senate committee process. In terms of the bill before us, the amendments that the government has moved seek to retain the requirement for the President of the AAT to be a judge of the Federal Court. That goes very much to the heart of a particularly serious concern the Democrats had in relation to this bill. We welcome the government addressing that.

As I outlined earlier in my speech on the second reading, we are concerned about the profound impact the proposal to relax the qualification requirements for the president may have on the operation and the integrity of the AAT. In particular, the independence of the AAT is likely to be compromised if the president is not required to be a judge of the Federal Court. The independence of the AAT is one of its more important characteristics, particularly given that its work is to review
decisions made by the government of the day, departmental officials and instrumentalities. So requiring the President of the AAT to be a Federal Court judge strengthens not only the actual independence of the tribunal but also its perceived independence.

As the Administrative Review Council argued in evidence before that committee:

The president is the public face of the tribunal and he has a vital role in organising and discharging its business. We think it is important that he or she be, and be seen to be, independent of government.

A Federal Court judge is not only independent of government but also likely to have the requisite skills and experience that the position of president demands. In this respect, the ARC submitted:

If the president is a judge of the Federal Court we think it more likely that he or she will be experienced in the process of weighing evidence and evaluating competing submissions in order to come to a decision. That is the essential role of the tribunal. It is also likely that he or she will be eminently legally qualified and that can be important in resolving some of the difficult questions of law that come before the tribunal.

For those reasons, we Democrats believe strongly that the requirement for the president of the AAT to be a Federal Court judge should be retained, and we are pleased to see that the government is now endorsing that position.

Senator GREIG (Western Australia) (5.33 p.m.)—The Democrats oppose schedule 1, item 21, in the following terms:

(1) Schedule 1, item 21, page 6 (lines 23 and 24), TO BE OPPOSED.

Our opposition to this schedule seeks to ensure that it will continue to be possible to make tenured appointments to the AAT. This is an issue in relation to which strong arguments were made to the committee by a range of organisations. Their arguments related primarily to the need to safeguard the real and perceived independence of the tribunal. The Law Council of Australia, the Law Society of New South Wales and the South Brisbane Community Legal Service all argued that the removal of tenured appointment would be likely to compromise the independence of the AAT and perhaps lead to a drop in public confidence in the integrity of its processes. For example, the Law Society of New South Wales argued:

Security of tenure is one of the cornerstones of independence, whether for a court or tribunal, and that independence should not be compromised.

For those reasons, we Democrats believe strongly that the option of making tenured appointments should be kept in the legislation. Retaining this option will place no obligation on the government of the day to make tenured appointments. Indeed, it would be entirely possible for the government to maintain its practice of only making fixed term appointments.
appointments. Nevertheless, there is clearly merit in retaining both options.

Senator LUDWIG (Queensland) (5.35 p.m.)—As I understand it, that option would be there for the president as well. That is probably where the significant difference between us lies. The government has not used the power to make tenured appointments for some time, as Senator Greig has correctly pointed out. A look through the records would probably show that Labor has not used it either, so I am not particularly sheeting any blame to the government on that point. It is one of those matters that has been pursued by policy in itself. The argument for the president to have a tenured position is one of the bulwarks that should remain. The power to make optional tenured appointments for all would reside with the government in any event. But that would open up the question of whether the president could be an optional tenured position. We have got to the point now where it has been accepted that the president shall remain a tenured position. Having one bird in the hand, I do not want it by trying to grasp an option for more.

The Democrat amendment would remove the sections of the bill which repeal sections 8(1) and 8(2) and allow tenured appointments for senior presidential members. This would give the government the additional optional power to make tenured appointments where necessary. The concern is that, if the government wants to strip back safeguards against politicising the AAT or downgrading the status or independence of the tribunal, that option may be there, whereas tenured appointments in the original design of the tribunal were a way to protect its independence. The principles and reasons for providing tenured appointments remain true to this day. I do not think we have got to a position where it should be optional in the legislation.

We are concerned that the optional power to make tenured appointments may, as I think I have correctly pointed out, have the inverse effect—tenure could be perceived as a carrot for sitting members to make decisions favourable to the government in the hope or expectation of a tenured position. If you bring this in, people who do not have tenure will then jockey for it. We think that the position we now have in how the AAT has operated and continues to operate is, while not the best in the world, near the best in the world, especially with the recommendations of the Senate Legal and Constitutional Committee which were significantly pursued by Labor and particularly by Ms Nicola Roxon as the shadow Attorney-General. However, the practice of making tenured appointments has all but been abandoned by this government in recent times. It has been argued that this might justify the removal of the government’s ability to make tenured appointments as it simply brings the act into line with existing practice. We do not think that is a valid argument either. The law should follow the practice of the day. We think the policy should set the tone of the legislation, and it should follow from that.

On those sorts of issues, we unfortunately part in how we think it should be structured. On that basis, we are not prepared to support the Democrat amendment, although we do understand in essence what they are trying to achieve and think the amendment for the president to have tenure is an improvement to the bill as it stands. The concern is that having the optional power to make tenured appointments where necessary may be a backwards step, particularly with a government that may not have a true idea of what the independence and stature of the AAT may be—and that is not to reflect on this government, although I probably have reflected in the past on this government regard-
ing those very issues. However, on this matter the government has conceded its position to us, and I am prepared to accept that on face value. Therefore, we will not be accepting this amendment.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (5.40 p.m.)—For the record, the government will be opposing the Democrat amendment. I point out that the majority of the committee accepted the removal of tenured appointments. The government believes that in order for the tribunal to continue to meet the needs of its users—average Australians—it requires access to a pool of appropriately qualified members. Tenured appointments undermine the ability of the government to ensure that that pool of appropriately qualified members corresponds to the needs of the tribunal and its users. I point out that the last tenured appointment was made in 1989, and that demonstrates that the previous Labor government went along with the approach that this government has followed. The other matter I point out is that the government amendments have reinstated the president as a Federal Court judge. Whilst Federal Court judges have tenured appointment, presidents do not. They will be appointed for a term of up to seven years, and I just point that out to the committee. For those reasons, the government will be opposing the Democrat amendment.

The TEMPORARY CHAIRMAN (Senator Kirk)—The question is that item 21 in schedule 1 stand as printed.

Question agreed to.

Senator LUDWIG (Queensland) (5.42 p.m.)—As there do not appear to be any amendments I can move together, I move opposition amendment (1) on sheet 4550:

(1) Schedule 1, page 6 (after line 24), after item 21, insert:

21A Subsection 8(3)

Repeal the subsection, substitute:

(3) Subject to this Part, a member holds office for the period specified in the instrument of appointment, provided that:

(a) the instrument of appointment must specify a period of not less than 5 and not more than 7 years; and

(b) a member is eligible for reappointment.

With this amendment we seek to provide for a minimum term. I think the Better decisions report also recommended a minimum term. If my memory is correct, it wanted something between three and seven years. The concept was to ensure that there was a fixed period. If we concentrate on the idea of a fixed period, we think that one of the deficiencies about the period that a member of the tribunal can be appointed for is that there is no ability to determine what the term will be. I think it was an issue that was ventilated in the committee, and the government has failed to adopt this.

We are concerned by what could happen. The government conceivably could make rolling or short-term appointments, leaving members in the unenviable position of constantly trying to determine whether they would be reappointed and depending on the vagaries of the government of the day. In our view, it is more desirable to have a term of at least five years so that there is some certainty to their employment. It is not unusual to ensure these sorts of things, and there is now that ability. I do not think the government can dispute—that, once we complete some of these amendments, there will be a broader power for the minister, in consultation with the president, to be able to remove people from their positions, take them off panels and otherwise appoint them. That opens up greater control by the president and the minister in terms of panels and better oversight. I suspect that is what the amendments proposed by the gov-
ernment go to—to ensure there is more flexibility in the way the president will be able to exercise control over the members and that decisions basically adhere to the original principle of being informal and fast.

Once you have that ability, you then say, ‘It is appropriate to ensure there is a minimum term.’ We suggest, and have sought to persuade this chamber, that that term should be five years, because it has those other safeguards built around it. It does allow the president to intervene if other things happen to cause them to reconsider a term. It then gives the member the ability to say, ‘Well, I am here. I have a term for five years. I can act fearlessly in the tasks ahead of me and I can continue to make decisions without constantly looking over my shoulder, as I would if I were given a six-month, three-month or one-year rolling appointment.’ I am not suggesting that the government would do that, but ministers and policy initiatives change.

I recall that in the Migration Agents Registration Authority’s changeover periods—I probably need the government’s help to recall this matter accurately—some appointments were left in considerable doubt. Harking back a couple of years, I remember that in one tribunal there were some short-term appointments that left some members in doubt and in limbo for a while. I cannot recall—and I will find out before we finish this debate—whether that was the Refugee Review Tribunal. Those sorts of circumstances, as I recall from estimates questioning, made members uncomfortable. They did not know precisely how their careers would pan out. It is a bit hard to plan for your future at a tribunal if you do not know the length of your tenure and you are at the government’s mercy, awaiting its decision as to whether you will be rolled over on appointment, terminated or employed on an almost casual arrangement.

I do not think this measure will detract from the AAT having sufficient flexibility. In fact, I think it will enhance it. It will ensure that members of the AAT have the ability to address their role of decision making without looking continually over their shoulder and worrying about the length of their appointment—whether it will expire in 12 months and whether the government will consider reappointing them. It will also allow external participants who come to the tribunal to have confidence that the person who makes the decision will remain for some time. If the case continues for some time or there is a lengthy appeal process, participants will be able to see that the tribunal does have continuity, and its members will be able to place some reliance on their ability to make decisions with confidence and without concern about how those decisions might impact on the executive government and jade their chances of being reappointed.

Labor’s amendment provides for a minimum term of appointment of five years. In so doing, we recognise that tenure for senior members, other than the president, has been largely replaced over a decade and a half by appointments of shorter periods of time. This is consistent with the way the majority of federal tribunals work. But, as I have said, a minimum term of appointment, as proposed in our amendment, provides some stability and certainty for tribunal members and it goes some way to resolving this issue.

The Senate committee report recommended the need for a term and settled for a minimum period of three years; Labor’s amendment takes it slightly further by proposing five. That is still within the gamut of the Better decisions report which, from recollection, indicated a term from three to seven years. That will provide a level of certainty that decisions are free from political influence or political bias and separate and far enough away from the administrative arm
It is not unusual in the business world to have terms or contracts of five years. It is not unusual in government, in other tribunals and agencies, to have contracts of five years. On that basis, we are pursuing that amendment and will expect the government at least to listen intently. I know they listened intently to the committee’s recommendation earlier regarding other amendments, and we are pleased that they have taken those on board. Given that there has been almost a clean sweep of the recommendations of the committee, we hope that they might pick this one up also.

Senator GREIG (Western Australia) (5.51 p.m.)—This amendment, as Senator Ludwig has said, seeks to set a minimum term of appointment for AAT members. It provides that a member of the AAT will hold office for the period specified in the instrument of appointment, which must not be less than five years and no more than seven years. However, the member is eligible for reappointment. We welcome the amendment, which goes further than the committee’s recommendation of a three-year minimum term. Like the requirement for the President of the AAT to be a Federal Court judge, setting minimum terms for AAT members should help to strengthen the independence of the AAT and ensure that members have the appropriate skills and experience that they need to effectively discharge the duties. As PIAC argued in evidence before the committee:

... a minimum amount of time ... is essential for garnering the knowledge of the various pieces of legislation and the process for people to have expertise, which will be built up over time. The AAT covers a very broad variety of pieces of legislation. To get on top not only of the Administrative Appeals Tribunal’s procedures but also of that legislation, you need a minimum amount of time.

We think that not only will minimum terms help to ensure that sitting members develop the appropriate expertise but they may also help to provide an incentive for prospective members to take up positions within the AAT. In this respect the National Welfare Rights Network argued:

Another by-product of shorter term appointments is that they are less likely to attract the high-calibre and best qualified people to these positions, and that will then have the effect of diminishing both the work and the value of the tribunal.

The Democrats’ support for this amendment should be seen in conjunction with our opposition to and rejection of the government’s proposal to remove the availability of tenured appointments in the future. We think the two go hand in hand. We do support minimum terms for members who are not given tenured appointments. However, we believe strongly that tenured appointments ought to be maintained.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (5.53 p.m.)—The government does not support the opposition’s amendment which would specify a five-year minimum term of appointment. As Senator Ludwig has outlined, this goes along with recommendation 2 of the Senate Legal and Constitutional Legislation Committee that a minimum term of three years be required. One of the objectives of the bill is to improve the flexibility of the tribunal and its capacity to manage its workload. There is currently no minimum term in the legislation. The government believes that specifying minimum terms of appointment would be inconsistent with this objective. It would remove the flexibility to make short-term appointments of specialist or generalist members to help the tribunal resolve a peak in a particular type of workload. It would also place the president in a straitjacket in managing the tribunal’s ongoing workload. This proposal would also be inconsistent with the appointment of members to other federal merits review bodies, namely the
Migration Review Tribunal, the Refugee Review Tribunal, the Social Security Appeals Tribunal and the Veterans Review Board. There is no minimum term of appointment to any of these bodies. For these reasons the government opposes this amendment, but I appreciate that the opposition has the support of the Democrats and it will be passed.

Question agreed to.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (5.55 p.m.)—I move government amendment (4) on sheet QS296:

(4) Schedule 1, item 36, page 10 (after line 13), after subsection (3), insert:

(3AA) Before the Minister exercises a power conferred by subsection (3), the Minister must consult the President.

Government amendment (4) relates to recommendation 5 of the Senate Legal and Constitutional Legislation Committee. That recommendation says:

The Committee recommends that item 36 of the Bill be amended to include the requirement that the Minister must first consult with the President before making or altering assignments of members to a Division of Divisions of the Tribunal.

This amendment inserts a new section 19(3AA) into the Administrative Appeals Tribunal Act to implement this recommendation. The committee accepted the changes to be made by the new section 19(3), inserted by item 36, which enables the minister rather than the Governor-General to assign non-presidential members to a division or divisions of the AAT and to vary assignments. The committee, however, recommended that there be a requirement for the minister to consult the president before making or varying assignments. As a matter of practice, the minister would consult the president on any assignment or variation of assignment. This amendment would make that practice a statutory requirement. So we see it as basically enshrining the practice we envisage and we see no problem in doing that. I commend this amendment to the committee.

Senator LUDWIG (Queensland) (5.57 p.m.)—Labor agrees to and supports government amendment (4), which concerns the divisions of the tribunal. It is an unusual provision, I have to say. The minister does have broad control in a range of areas of responsibility. My history goes to tribunals which are more on the industrial front. The minister would not in those circumstances exercise control to determine who would go on division A, B, C or D as the case may be. But, in this instance, the committee recognised that there may be an occasion where the minister may want to appoint members to particular divisions. In some circumstances it may be appropriate. If the amendment passes it will be appropriate in all circumstances. But, rather than being left with the position where the president would not be able to have some input into the system, the committee saw that there was a need for the minister to consult with the president before making assignments to divisions of the tribunal. It is a sensible proposal. In this instance it ensures that both the president and the minister can ensure that the appropriate talent is utilised and members go to areas where they will be able to contribute significantly, rather than the minister making that decision without conferring with the president to obtain his or her view.

The original form of the bill allowed the minister to directly assign members to divisions of the tribunal. Previously, this process was formally completed by the Governor-General. Labor accepts that the bill removes a layer of formality and contributes to greater efficiency. There were two ways that you could go on this, one being that the minister should not have a role and that the tribunal president should be able to appoint people to
the division. However, the history of this legislation has always been that, in truth, the minister and then the Governor-General formally made the decision. It was already accepted practice that effectively the minister was making the decision. In that instance, it made sense to widen it to at least ensure that a proper consultative process was undertaken.

The Senate committee unanimously agreed that this streamlined process could fuel perceptions and that such close control of the tribunal’s make-up by the minister could undermine its independence. It would have been a perception only but one which I think would have been unnecessary to create. In this instance, the better way is the way that the amendment has been framed in response to the recommendation by the committee. It does require the minister to consult with the AAT president prior to making an assignment. It is good sense and, combined with the requirement that the president be a judge of the Federal Court, this amendment adds an additional layer of accountability and transparency but does not involve the existing excessive time and formality that might otherwise be the case in going through the Governor-General. This amendment, as I said, is in accordance with the recommendation of the Senate committee, and we are pleased to support it.

Senator GREIG (Western Australia) (6.01 p.m.)—This amendment requires that the minister consult with the President of the AAT before assigning a non-presidential member to a particular division or divisions of the tribunal. Under existing arrangements, the Governor-General assigns non-presidential members to a particular division or divisions of the tribunal—for example, the Security Appeals Division. The bill seeks to transfer this power from the Governor-General to the minister.

Submissions to the committee—for example, those from PIAC and the Australian Lawyers Alliance—argued that this arrangement would compromise the actual and perceived independence of the tribunal and lead to the perception that it was subject to political control. The Senate Legal and Constitutional Legislation Committee accepted the government’s argument that this amendment would facilitate speedier assignments. However, it recommended that the bill be amended to require the minister to consult with the President of the AAT before making such an assignment in order to promote confidence in the assignment process and in the independence of the AAT more generally. We can readily support this amendment, which we trust will implement the committee’s recommendation.

Question agreed to.

Senator GREIG (Western Australia) (6.02 p.m.)—The Australian Democrats oppose schedule 1 in the following terms:

(2) Schedule 1, item 47, page 13 (lines 29 and 30), TO BE OPPOSED.

The purpose of our opposition is to reject a proposed change to the Migration Act contained in item 226 of the bill. Item 226 will remove the existing requirement for the tribunal to be constituted by one member alone when conducting a review under section 500(5) of the Migration Act. This section deals with the review of decisions such as a ministerial order to deport a noncitizen convicted of a crime, the refusal of a visa on character grounds and the refusal of a protection visa in specific circumstances. These are hardly insignificant matters and, as PIAC argued before the committee, require serious consideration from a highly skilled adjudicator. Accordingly, we Democrats concur with PIAC’s view that these matters should be determined by a presidential member of the AAT.
Moreover, we are concerned with the quite convoluted nature of the new provision proposed by the government. The proposed replacement of section 500(5) sets out a whole range of broad and ambiguous considerations which the president must have regard to in determining how the tribunal should be constituted for a review under this section. The Democrats are concerned that the lack of clarity associated with the new provision is likely to generate confusion and delay. For both these reasons we believe that the current requirement for the tribunal to be constituted by one member alone should be retained.

Senator LUDWIG (Queensland) (6.05 p.m.)—Senator Greig, you are not having much luck tonight. I will give you the bad news first. We are not going to agree to the amendment. I can see the sense in it, but to accept it at face value would mean it would have to apply not only to the migration legislation but to legislation more broadly. The migration legislation, as you know, is an area that I have dealt with in this chamber for some years now, along with you, Senator Greig, but there are other areas within it where, if you were to say, ‘The changes are aimed at ensuring that a presidential member sits on an AAT review of migration matters and that a presidential member must sit in multimember tribunals,’ it would have to hold across the board.

I do not know whether I could argue that migration is more important—although I think it might be—than veterans reviews, tribunal reviews and other administrative areas that are reviewed such as Centrelink. They are all important areas. They all canvass the law to a greater and lesser extent. Some migration decisions may not canvass the law as much as others that rely on humanitarian issues or on interpretations of visas, and the same can be said for other administrative divisions of the AAT such as those dealing with removable property.

There is a body of case law in whole areas of the AAT in different divisions where they have relied on those presidential members who have sat on multimember tribunals. Of course the president can still look at this issue and decide how they might put together panels and how they might put together multimember tribunals to ensure that there is effective review. There is always an appeal after that in any event. That would be by law to the Federal Court—although I might be corrected on that. The need for this change is balanced with the need for greater flexibility. One of the arguments which has been made by the government—and I think made reasonably well during the hearings of the Senate Legal and Constitutional Legislation Committee by the Attorney-General’s representatives—is that, taking aside our view of some of the issues, this legislation is aimed at ensuring there is flexibility, that the president can make greater use of his members and can make them more responsive to the needs of those people who come before the tribunal.

If you accept that that is their aim—and I think I can accept, at least at face value, that that is what they are pursuing—then this would add another complex layer which might create difficulties in administration. People might then have to wait or have to pursue different panel arrangements—and ensure that this is the right panel for migration. Others might miss out as a consequence. If item 47 is opposed in this way, the tribunal might have to be constituted in a particular way: the president might have only so many people who are legally qualified or who are presidential members and therefore they may be dragged away from other areas, whereas the president may have determined that they would have been better utilised in those tribunals. Those sorts of arguments
would, I think, militate against us supporting this proposal on the basis that the president needs to have the ability to ensure that the tribunal is constituted in the way that it should be. I think you have to take it in good faith that the president would have that aim and would ensure that that would happen. The way the current legislation is being pursued by the government allows the president to have that flexibility. On balance, we accept the majority committee report that these changes are not necessary. On that basis we will oppose the Democrat proposal.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.09 p.m.)—The government, like the opposition, do not support the Democrat proposal for the continuation of the requirement to appoint a presidential member or senior member to multimember panels. As was noted in the Senate committee’s report, it is not a requirement for a senior member to hold legal qualifications. Removing the requirement that a multimember panel be constituted by a presidential or senior member will give the president greater flexibility in managing the tribunal’s workload. It will also ensure that the constitution of the tribunal will be based on the needs of the case at hand and not the status of the members. That is something which we believe is essential for the good working of the tribunal and for it to keep its flexibility. For those reasons the government will not be supporting the Democrat proposal.

The TEMPORARY CHAIRMAN (Senator Moore)—The question is that item 47 stand as printed.

Question agreed to.

Senator LUDWIG (Queensland) (6.11 p.m.)—I move opposition amendment (2) on sheet 4550:

(2) Schedule 1, item 66, page 18 (lines 15 and 16), omit paragraph 23(9)(a), substitute:

(a) the President is satisfied that the direction is in the interests of justice for one of the following reasons:

(i) the President has reasonable grounds for concluding that the personal circumstances of, or aspects of the conduct of, the member are such that they may cause, or are causing, an unreasonable delay to the progress of the proceeding;

(ii) the President reasonably suspects that the member is subject to a conflict of interest in relation to the proceedings;

(iii) the President concludes that there is a significant risk that the member will be considered to be subject to a conflict of interest in relation to the proceedings;

(iv) the President reasonably suspects that an action by, or concerning, the member, including the making of a statement, makes it desirable that the member not continue to take part in the proceedings; or

(v) the President reasonably suspects that an inquiry or investigation that the member is or has been subject to makes it desirable that the member not continue to take part in the proceedings; and

This amendment provides a greater definition of the interests of justice. It is an alternative to what we say is the government’s inadequate response to recommendation 3 of the Senate committee report. The ability of the president to remove or reconstitute a tribunal is in fact a broad power, and I went to that earlier in this debate at the committee stage. The bill allows this power when it is deemed to be in the interests of justice to do so. That is a broad power for the president to exercise when the president goes to remove or reconstitute a tribunal. If you look at that power in isolation, you will see that the
The president can then say, 'In the interests of justice, this will occur in relation to reconstituting a tribunal or removing it.' If you take a positive view, it may be one of those instances where there is a need. I suspect that there have been problems in the past with how tribunals have been constituted—that they have been unable to continue their sitting or that issues have arisen which have required the president to intervene. Perhaps the president was not able to or did not consider that their powers stretched far enough to be able to intervene. The problem with trying to address this, though, is that you are left with a broad definition of what 'interests of justice' means.

The Senate committee heard a number of concerns about the vagueness of this term. I hasten to add that we are trying not to add to that vagueness either by proposing an amendment. We understand that the explanatory memorandum does outline some of the circumstances in which the president may exercise this power, including where there is a conflict of interest or where the member has made public statements that could prejudice the impartiality of the proceedings. Of course that outline in the explanatory memorandum is not exhaustive. It is a difficult area. In some respects the government’s answer to some of these issues is to say, 'If we put it in the explanatory memorandum then it will be extrinsic material that can be relied on in interpreting that provision some time down the track.' We do not think that is good enough.

Labor’s amendment does provide more comprehensive guidance to the president and narrows what both Labor and the Senate committee believe was an excessively wide discretion bestowed on the president. This discretion, combined with removal of tenure for the president, would result, in our view, in an unacceptable stripping of the safeguards which currently apply. Labor’s amendments define the factors the president needs to consider when removing a member from a proceedings. That is a big step to take and should not be taken lightly—nor should the president be guided by an explanatory memorandum in making this decision. The president should have some assistance in the legislation itself to guide him as to when and how he should exercise that decision-making power. That power is to be used where there is a conflict of interest or a perceived conflict of interest, where the public statements or actions of an AAT member make it desirable that the member not take further part in the proceedings, where a member has been subject to investigation or where their conduct warrants their removal.

The Senate committee was concerned about this provision and recommended re-drafting without giving a specific form of words. The Labor amendment is an attempt to do just that. We believe it improves the bill and picks up the spirit of the committee’s recommendations, relying in part on the explanatory memorandum in pursuing that. It moves it from the explanatory memorandum’s extrinsic material to be considered as part of the bill to being part of the bill and allowing the presidential member to take cognisance of the words of the statute itself.

We are not wedded—this is where I end up with round heels—to this form of words. If the government, using the resources it might have available, can come up with a more succinct and exact wording, we are prepared to look at a final draft or a more appropriate structure. But we do not accept that it be left in extrinsic material. In other words, we do not accept that the explanatory memorandum is the right place for it to be dealt with. We think that some form of words is needed that ensures that the president does not have an unfettered power but is guided—but that it is not an exhaustive guide. There is an area for discretion for the president in
exercising that, and we recognise the need for that discretion, but we recognise that the president should be guided in that exercise. That, I think, is an appropriate way of pursuing this particular section. The amendment picks up the spirit of what the committee was recommending.

This is a form that the government has used in past legislation before this Senate, where it used guidance within legislation rather than strict adherence to a set of criteria. We as a nation seem to be moving away from having strict criteria that must be met to more guidance being provided in legislation. This will ensure that the president comes to a right or preferable decision about a range of matters rather than his ticking off certain criteria and then saying, ‘Having met all those criteria, X should then happen.’ We are trying in this amendment to pursue that same objective—although from the other side of the chamber.

We seek the government’s and the Democrats’ support for this, but if in the process of going between this place and the House the government seems minded to agree to at least the concept we will not stand on some of the words if the government thinks it might be able to redraft them in a more precise way. Of course, we will include the Democrats in that discussion as well.

Senator GREIG (Western Australia) (6.18 p.m.)—The amendment specifies the circumstances in which the president may direct a member not to continue to take part in proceedings. The power to give such a direction is, of course, a new power introduced by the bill. In its current form, the bill provides that the president may give such a direction if she or he is satisfied that it is in the interests of justice to do so. While there were some organisations which criticised this power generally—for example, PIAC argued that it may give rise to considerable expense and delay—other organisations did agree that there may be circumstances in which it would be necessary to remove a member from the tribunal; yet even these organisations expressed concern at the breadth of the power, arguing that ‘interests of justice’ was too vague a threshold for the exercise of that power.

Opposition amendment (2) has clearly been formulated to address this concern. It sets out the specific circumstances in which the president may direct a member to step down from proceedings. In particular, the president may give such a direction if she or he has reasonable grounds to conclude that the personal circumstances or conduct of the member are causing unreasonable delay, the member is subject to a conflict of interest or the risk of a conflict of interest, an action by or concerning the member make it desirable that the member not continue or an inquiry or investigation that the member is or has been subject to make it desirable that he or she not continue. We agree that the circumstances in which the president may exercise this significant power need to be clarified. The opposition amendment provides such clarification and, for that reason, we can readily support it.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.20 p.m.)—Opposition amendment (2) seeks to put into effect recommendation 3 of the Senate committee report. I might just refer to that again. It states:

Recommendation 3
2.63 The Committee recommends that proposed subsection 23(9)(a) be amended, in order to provide guidance as to the circumstances under which the president should exercise the power to remove a member, and reconstitute a tribunal, ‘in the interests of justice’ ...

‘In the interests of justice’ is a crucial phrase here. Of course, the government has accepted recommendation 3 and, in govern-
ment amendment (5), the government seeks to put into effect that recommendation. The government acknowledges what the opposition is endeavouring to do in its amendment but prefers its own amendment, for a number of reasons. In the debate on opposition amendment (2), I might refer also to the arguments for government amendment (5) in order to shorten the debate.

Firstly, opposition amendment (2) provides more prescription or direction than we believe recommendation 3 sought. Unlike the government’s proposed amendment, the opposition’s draft includes a list of factors which is exclusive, technical and, we believe, more difficult to follow. The difference between the two amendments is not just in length, when you see the opposition’s amendment on one side as opposed to the government’s. However, we do believe that the opposition’s list may not cover all the potential circumstances and may so risk leaving the president unable to act when it would be appropriate to do so.

As the Administrative Review Council and the tribunal have acknowledged, if there are specific criteria there is a risk they will not be sufficiently flexible to deal with particular circumstances that could arise. The Administrative Review Council has also acknowledged that expressions such as ‘in the interests of justice’ are only workable if they are stated in fairly broad terms—which we believe the government has done. ‘In the interests of justice’ is not a new expression; it is contained in a range of acts, generally to do with the exercise of a court’s power to transfer proceedings. The expression may encompass a diverse range of circumstances. For that and other reasons, the government believes it is best to keep that expression in broader terms.

The opposition has argued long and hard for retention of the requirement that the president should be a Federal Court judge. The government has agreed to retain that requirement. Surely it follows that if all the arguments for keeping this requirement are true then a Federal Court judge can exercise his power without a legislative straitjacket.

The government’s amendment, on the other hand, does not provide that legislative straitjacket. The government believes that, when you take into account the views of the Administrative Review Council and the tribunal and the fact that ‘in the interests of justice’ has been incorporated in other legislation, the amendment is more in the vein of ‘guidance’, which is referred to in recommendation 3 of the report of the Senate Legal and Constitutional Committee. The government’s proposed amendment states:

In determining whether a direction covered by subsection (9) or (11) is in the interests of justice, the President must have regard to the objective of proceedings that are conducted in a manner that is fair, just, economical, informal and quick.

The government is looking at the objectives there. The opposition amendment is more prescriptive and exhaustive. For those reasons, the government appreciates what the opposition is endeavouring to do but prefers the drafting of its own amendment (5).

**Senator Ludwig**—Has the term ‘in the interests of justice’ been judicially considered? I imagine it would have been.

**Senator ELLISON**—Without any evidence to back me up, I imagine it would have been. I am shooting the breeze a bit, but I would be amazed if it has not been. We can take that on notice and provide some examples to the committee—I might not be able to get that to the committee immediately—but I would be very surprised if that term has not been taken into consideration in the course of legal proceedings.

**Senator LUDWIG** (Queensland) (6.25 p.m.)—We might get that answer. It might
come up—and then we can then have this debate again. But we still press our amendment. The government’s amendment, which we have not got to yet, states:

In determining whether a direction covered by subsection (9) or (11) is in the interests of justice, the President must have regard to the objective of proceedings that are conducted in a manner that is fair, just, economical, informal and quick.

There are also circumstances the president might have regard to which fall outside of that and which are in the interests of justice. That may limit the issues that the president might have regard to. We then might be in a position where the president says that it does not fall clearly within the definition of ‘a manner that is fair, just, economical, informal and quick’—‘fair’ may stretch broadly enough to cover it but it may not—and the president may then say, ‘It might be in the interests of justice, but then I will fail to be able to deal with some of the circumstances that might arise.’ That is conjecture because of the myriad circumstances that may arise. I certainly cannot imagine all of them, and the law never seems to be short of new and innovative solutions and issues, but in this instance we have endeavoured to provide some structure for the president to follow to at least conclude how the debate is made, ensuring that it is within the interests of justice, and to then come up with one of those other reasons. If these are not all the reasons that the government may think will arise, I am certainly open to a suggestion to add more. We have tried to at least ensure that it is not too complex and lengthy, and we have tried to cover, at least in broad terms, all the circumstances that might arise, not only those which are ‘fair, just, economical, informal and quick’.

Question agreed to.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.28 p.m.)—I move government amendment (5) on sheet QS296:

(5) Schedule 1, item 66, page 18 (after line 27), at the end of section 23, add:

(12) In determining whether a direction covered by subsection (9) or (11) is in the interests of justice, the President must have regard to the objective of proceedings that are conducted in a manner that is fair, just, economical, informal and quick.

The arguments were canvassed in the debate on opposition amendment (2) and I suggest the amendment be put.

Question agreed to.

Senator LUDWIG (Queensland) (6.29 p.m.)—by leave—I move opposition amendments (3) and (4) on sheet 4550:

(3) Schedule 1, page 25 (after line 24), after item 76, insert:

76A Subsection 27(1)

Repeal the subsection, substitute:

(1) Where this Act or any other enactment (other than the Australian Security Intelligence Organisation Act 1979) provides that an application may be made to the Tribunal for a review of a decision, the application may be made:

(a) by or on behalf of any person or persons (including the Commonwealth or an authority of the Commonwealth) whose interests are affected by the decision; or

(b) by a member of Parliament.

(4) Schedule 1, page 25 (after line 24), after item 76, insert:

76B After subsection 27(1)

Insert:

(1A) For the purposes of paragraph (1)(b), member of Parliament means a member of the Parliament of the Commonwealth.

These amendments to the AAT Act were originally proposed in a private member’s
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bill by the member for Griffith in the other place. It provides that federal MPs and senators have standing to be heard in matters before the AAT, and it was introduced in response to a perceived narrowing of the definition of ‘standing before the AAT’. Labor’s amendment will provide the opportunity for federal members of parliament to appear before the AAT in matters which specifically affect their electorates. As we are all acutely aware, federal MPs have a close and crucial relationship with and understanding of developments in their electorates. I might also say that senators in Queensland have that as well.

The member for Griffith was particularly concerned with a government decision regarding an airport development in his electorate. I do not want to go to the substance of the debate nor the merits of that development, but one of the issues which came out of that is that standing for federal MPs seems to be a logical extension to ensure that the AAT can have the views of federal members of parliament—allowing them to represent their constituents. Labor believes that this is a sensible amendment which will not only assist MPs in their duties but also make MPs responsive to their electorates—which, in my view, is always a positive thing. Labor’s amendments are vital to ensure that sensible reform of the AAT is not used to provide cover for other changes that might attack the standing of the AAT. I will not prolong the debate any longer. I hope the government will pick up these amendments.

Senator GREIG (Western Australia) (6.31 p.m.)—These are perhaps the more interesting amendments put forward by the opposition. Their purpose is to give members of parliament standing to appear before the Administrative Appeals Tribunal for a review of a decision affecting a constituent. I suspect that all of us in this chamber are frequently contacted by constituents seeking assistance in relation to an infinite range of grievances. Often it can be difficult or inappropriate to provide the assistance sought, particularly when legal proceedings are underfoot. However, the Democrats do agree with the opposition that it is entirely appropriate for members of parliament to assist their constituents when they have been aggrieved by a faulty decision-making process. By giving members of parliament standing to seek a review on behalf of their constituents, these amendments will, I think, better equip all of us to assist and advocate for the interests of our constituents. They will enable us to serve our electorates more effectively and perhaps enhance the process of democracy. We are pleased to offer our support for these amendments.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.32 p.m.)—The government notes that the opposition amendments repeat amendments previously brought forward as a private member’s bill in the House of Representatives. Under section 27(1) of the Administrative Appeals Tribunal Act 1975, an application may be made to the tribunal by or on behalf of any person whose interests are affected by a decision. Courts have consistently held that the meaning of ‘interests affected’ in section 27(1) has an ambulatory operation and will depend upon the subject, scope and purpose of the enactment under which the decision was made. The government believes that this interpretation strikes a balance between accessible review of government decisions that affect people’s rights and interests and undesirable meddling in government decision making.

The opposition’s proposed amendments to the AAT Act would allow a member of the Commonwealth parliament to seek a review of any Commonwealth decision that is reviewable in the tribunal. A review may be sought by a member of parliament regardless
of whether any person’s or body’s interests were affected by the decision or whether the person or organisation that was affected by the decision was satisfied with it. For example, a person or organisation may seek a review of a wide range of decisions made by the Commissioner for Taxation under certain tax legislation as to the amount of tax payable to the Commonwealth. Even if the person or organisation is satisfied with the decision, under the proposed amendments, the government believes that a member of the Commonwealth parliament would be able to seek a review in the tribunal. It would be highly undesirable—to take an extreme example—if one member of the federal parliament could seek a review of another member’s tax assessment.

The government believes that there is a strong possibility that the provision could be misused for political purposes and government decision making could be held to ransom. The ramifications of this are quite obvious. Of course I have quoted quite an extreme example, but nonetheless there it is. It would be possible, for example, for one person or a political party to seek a review of all decisions in a particularly politically sensitive area, notwithstanding that those affected by it are quite happy with the decisions. Government decision making in that area would grind to a halt while these matters were being resolved. Of course that would be something which would, from a public policy point of view, be undesirable.

Commonwealth ministers, their departments and agencies may be less inclined to allow for a review by the tribunal of decisions made under legislation for which they are responsible that may affect an individual’s rights and interests because they would be concerned about political interference from members of the Commonwealth parliament. In turn, this would undermine the purpose of the tribunal as a body that provides independent, affordable and accessible review of government decisions.

The question of locus standi is always an issue in the law—that is, who can bring an action and who is affected by that decision. Certainly the government believes that the meaning of ‘interests affected’ in section 27(1) strikes an appropriate balance and that by extending this to members of parliament willy-nilly we could have undesirable results in various situations. The government therefore opposes opposition amendments (3) and (4).

Question agreed to.

Senator GREIG (Western Australia) (6.36 p.m.)—The Democrats oppose item 226 in schedule 1 in the following terms:

(3) Schedule 1, item 226, page 65 (line 25), to page 66 (line 29), TO BE OPPOSED.

Our opposition to this schedule goes to the heart of our concern regarding the constitution of multimember panels. As I noted in my speech in the second reading debate, the bill will remove the requirement for multimember panels to include at least one senior member. We Democrats have serious concerns regarding this proposed change. As the National Welfare Rights Network noted:

... the practice of the Tribunal is to constitute multi-member Tribunals in cases involving significant questions of law, complex issues of fact and detailed consideration of scientific or medical evidence.

We Democrats note that senior members are by definition legal practitioners who have been enrolled for at least five years or individuals who possess special or particular knowledge or skills. But, given the complexity of the matters assigned multimember panels, we take the view that it is vital for these panels to include at least one practitioner or other senior member with relevant expertise. The purpose of our opposition to this schedule is to retain this requirement.
Senator LUDWIG (Queensland) (6.37 p.m.)—It is three strikes and you are out, Senator Greig! We are not going to support you on this. I think I indicated earlier that it went to the same issue I went to in relation to your amendment (2) on multimember tribunals. I traversed this area. If you take at face value what the government intends to do in respect of this, the president will be able to constitute tribunals in a way that is flexible and meets the demands that are placed on the AAT. If so, it will meet the test of being a positive improvement to the way the tribunal works. We take it at face value. We do not think it will be abused; we think the AAT with a tenured president will take the task seriously and address the concerns. Sometimes there may not be sufficient people to go round—there is always a scarcity of resources in these sorts of places. There is always a shortage of legally qualified people. There is always a shortage of full panels with the required skills that you want to bring to a particular matter—I think that is just a given in these areas where there are demands on the AAT to perform well.

The president will bring their expertise to bear to ensure that the multimember tribunals, with the flexibility that they will have once this legislation passes, will then be able to address the needs of individual divisions and address within those divisions the types of matters that come before it. If you then bring in the ability to change and reconstitute panels if a problem is struck down the track—for example, where three members or a multimember panel put their hands up and say, ‘This has gone beyond our area of expertise into an area that we have little knowledge of,’ or, ‘This is a matter that we might need additional assistance on’—the president will be ably placed in the interests of flexibility in order to ensure that the decisions are informal and quick. There are all those reasons for being able to reconstitute panels. I do not think it would be a type of decision where that might happen, but it does allow flexibility and it is a positive move to allow the legislation to remain as it is rather than enforce a standard panel format across all of the divisions. So for those reasons, unfortunately, we are not minded to support the Democrats on this, but we do thank them for their earlier support.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.40 p.m.)—Consistent with the government’s approach to improving the capacity of the tribunal to manage its workload, of course the bill does remove the requirement in relation to the multipanels that Senator Greig has mentioned. Senator Greig is wanting to retain the requirement that a presidential member should be part of a tribunal considering character, criminal deportation or refugee character decisions. Under the government proposals the president will decide the make-up of the tribunal for particular matters. We believe the president should have that discretion. The president will of course be a Federal Court judge. The bill does insert factors relevant to the review of character, criminal deportation or refugee character decisions as matters that the president must have regard to. These factors, we believe, will ensure that the tribunal is constituted appropriately and will provide that guidance to the president—again, they must be a Federal Court judge.

The government does not believe that its proposals will result in an increase in challenges to the president’s constitution of the tribunal and thereby further delays. The constitution of the tribunal should be on the basis of the needs of the case at hand rather than the status of the member. Again, I stress that what the government proposes is a more flexible approach to the tribunal. I indicated that at the outset in the closure of the second reading debate. For those reasons, the gov-
ernment will not be supporting this proposal by the Democrats.

The TEMPORARY CHAIRMAN (Senator Moore)—The question is that item 226 of schedule 1 stand as printed.

Question agreed to.

Senator LUDWIG (Queensland) (6.42 p.m.)—I did indicate during the committee stage that I would come back to the issue of tenure in relation to the ART—in this instance, it is to do with the Refugee Review Tribunal. I am ably assisted by my staff, who were able to at least find where my memory was jogged. This matter was raised during estimates—during consideration of the Immigration and Multicultural Affairs portfolio in relation to the Refugee Review Tribunal—on 30 May 2001. On page 346 of the transcript Senator McKiernan raised the issue—my memory serves me reasonably well. It was about the movement from the ART. We were all going to go down this track—or at least the government was; I do not know whether it had managed to persuade those sitting on this side to follow suit. I will not delay too long on this point. The transcript reads:

Senator McKIERNAN—You are hoping for 10. What are the termination dates of appointment for those members currently serving on the tribunal?

Ms Cristoffanini—My understanding is that it is 30 June.

Senator McKIERNAN—How long away is that?

Not trying to be evasive, Ms Cristoffanini said:

Not very long.

Senator McKiernan persisted and asked, ‘One month?’ Ms Cristoffanini said, ‘Something like that.’ They then went on:

Senator McKIERNAN—How many members of the tribunal are there—53?

Ms Cristoffanini—There are 53.

The point I am making—and I think the transcript bears it out—is that the government had decided before a bill was due to pass that the terms of appointment were going to come to an end on 30 June, and this was about a month out. I do not wish to go to the transcript, so if I get this wrong I am happy to be corrected, but I think it was conceded by those tribunal members present—perhaps not by Senator Ellison, who was also present—that it did create issues about morale and uncertainty about whether they had a job. The government was persuading them that they in fact did have a job, but I think there were still doubts left in their minds as to whether they did have a job.

That instance goes to the issue of tenure that I spoke of earlier. It is important to ensure that people do have a basis to say, ‘I have a start date and I have a finish date.’ In this instance Labor’s proposal was five years, which has been accepted by this house. Therefore, people have an ability to address their decisions, without coming in this instance to an estimates hearing with one month to run—no tenure facing them in the future and no certainty—but being assured that they in fact have a future. Former Senator Cooney also raised the issue with them as well. If you read pages 346 to 354 you do get a sense of the concern expressed by the tribunal members about the uncertainty that that can create. That was the only point I was trying to make. I thank the chamber.

Bill, as amended, agreed to.

Third Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.47 p.m.)—I move:
That this bill be now read a third time.

Senator LUDWIG (Queensland) (6.47 p.m.)—I will make a few prefatory remarks to keep you all on edge as to whether we will get the Administrative Appeals Tribunal Amendment Bill 2004 [2005] through tonight. It has been a long journey between when the Senate Legal and Constitutional Legislation Committee—of which I was a member—first started the process of reading the Administrative Appeals Tribunal legislation and looking at the amendments. I came to the amendments in perhaps a bit of a cloud because I had also gone through the ART experience during 2001. I did form a view about how these amendments to the Administrative Appeals Tribunal Amendment Bill might be addressed in general and how the government would progress the matter. Of course, I also had the ability to raise the matter during estimates—and I read out the part in relation to the Refugee Review Tribunal and how that was impacting upon existing members of both the MRT and the RRT at the time. Additionally, the government’s drive and expectation at the time was to revamp the AAT to form the ART. In the end, after a long committee process with the Senate Legal and Constitutional Legislation Committee, Labor opposed that proposal, for what we then said were all the right reasons.

The view I then adopted, perhaps prematurely, on this matter is that it might be another round of the same. However, this has been a better experience. The committee came up with a unanimous report. I congratulate the members, particularly the hardworking staff, on the work they put in. The government took the recommendations at face value and adopted them within the government amendments to this bill. I thank them for the time they spent going through those amendments, picking them up and examining them in detail. I asked them also to do that in relation to the additional amendments that we have now made.

Question agreed to.

Bill read a third time.

DOCUMENTS

The ACTING DEPUTY PRESIDENT (Senator Moore)—It being 6.50 p.m., I now call on consideration of government documents.

Multicultural Affairs: Access and Equity Annual Report 2004

Senator LUDWIG (Queensland) (6.50 p.m.)—I move:

That the Senate take note of the document.

On behalf of Labor MPs I am pleased to welcome the intentions of the 2004 access and equity annual report of the Department of Immigration and Multicultural and Indigenous Affairs. It is a good idea to ensure that all government departments and agencies are fulfilling their obligations to offer services to all Australians. The idea of an annual access and equity report is so that DIMIA can provide an assessment of how each department or agency is meeting its requirements under the Howard government’s Charter of Public Service in a Culturally Diverse Society.

That is all good in theory but, like so much of the Howard government, this is a policy driven solely by the minister’s hot air. Let us have a look at the executive summary. On page 9, over the page where the minister has signed off, it says:

DIMIA does not verify the accuracy of reported information or the scope of its coverage.

You then have to ask the question: what is the point of doing this? But the idea is a good idea. It is an excellent idea to ensure that there is access and equity, that it is reported on, that there is an annual report on it and that there is a Charter of Public Service in a Culturally Diverse Society.
If you keep reading the executive summary, it gets better: ‘This level of subjectivity in reports is a limitation of the assessment process.’ Minister, you don’t say! Let me continue. Look at 2004: agencies were assessed as meeting a performance indicator where they provided at least one example to demonstrate that relevant processes were in place in the organisation. So, basically, each agency was given the task of finding a way to pat itself on the head by finding the best possible example of how it met the charter. That is what it looks like. I am happy for the government to disavow me of that view. But, faced with the minister’s stringent demands, a full 30 per cent of government agencies simply ignored the task as well. I think that says a lot about how seriously the Liberal government takes the issue of multicultural affairs. It is a serious issue; it should be taken seriously. It gets even worse. Of the 63 agencies that replied, more than half—that is, 32 agencies—scored 50 per cent or below on their relevant performance indicators. I did note, however, that under this rigorous process the minister has managed to scrape through an award—a gold star and a smiley stamp—as DIMIA managed to score 100 per cent on the charter. That is not surprising.

To summarise, the minister has delivered us a weak access and equity reporting system. It is so weak that it requires self-selection for all agencies concerned, and they do not seem to be able to give themselves a 100 per cent tick, even under that process. This minister’s reporting system is weak, and the department cannot even bring itself to stand by the assessments. It says: ‘We can’t even stand by the weak assessments. They’re subjective and we can’t verify them.’ Thirty per cent of agencies failed to bother with a reply, and, of those that did, more than half failed, even on their own self-selected evidence, to meet the principles of the charter. You really would have to worry about that.

This report says a lot about this government’s commitment to the principles of multiculturalism. That the government can come up with such an abysmal process for assessing the right of ordinary Australians to access and equity from their own government departments and agencies highlights the arrogance of the Howard government in its treatment of multicultural issues. As always, with the Liberal Party it is a case of all talk and no action. Sadly, the 2004 access and equity report is no exception.

Question agreed to.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Moore)—Order! There being no further consideration of government documents, I propose the question:

That the Senate do now adjourn.

Valedictory: Senator John Tierney

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.55 p.m.)—This week we see the last sitting week for Senator John Tierney during his time as a senator for New South Wales. I must say that is a role that he has fulfilled with distinction, integrity and a good deal of humour, and that is something for which Senator Tierney is renowned. I met Senator Tierney when I came to this place in 1993. The first impression I gained was: here is a person who is passionate about education and training. Indeed, his history is in academia.

When I was Minister for Schools, Vocational Education and Training, I soon realised that Senator Tierney knew a lot more about education than I did. I certainly relied on his input in the Senate committee on education, employment and other matters. In fact, Senator Tierney presided over many estimates hearings. He chaired those meetings in quite difficult circumstances but with
fairness. His in-depth knowledge was demonstrated by the way in which those committees were run. As a person who has represented New South Wales, and in particular the Hunter region, Senator Tierney has done an outstanding job. In his first speech he referred to the Hunter region and to the fact that he set out to represent that region—indeed, he did so very well. I hope that is appreciated by many people.

I wish Senator Tierney, his wife Pam and their family all the best for the future. It has been an absolute pleasure to have worked with Senator Tierney in relation to a wide variety of matters, particularly in the areas of education, training and employment, which he held to be so important and for which, as I said, he has an ongoing passion. The state of New South Wales was indeed lucky to have the representation of a senator of such quality as Senator Tierney. His family and the party in New South Wales can be very proud of the contribution that he has made to the national parliament.

Valedictory: Senator John Tierney

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (6.58 p.m.)—I too want to make a few short remarks, on behalf of the opposition, to farewell Senator Tierney. I am always a bit wary about valedictories, or, as I refer to them, obituaries. I have to watch myself now: I refer to them as obituaries out of habit. But, of course, they are not obituaries; they are just farewells to persons who have served in the Senate and are leaving. I understand that Senator Tierney is resigning slightly before the end of his term to take up some other employment. I am very pleased to hear that there is life after the Senate for long-serving senators. I am most cheered by that prospect. I see that Senator Tchen is present. I hope there is life after the Senate for him too. On behalf of the opposition, I want to recognise Senator Tierney’s service on behalf of the Liberal Party in representing New South Wales. I understand he has been in the Senate since 1991—a bit before me—and was elected in 1993 and 1998.

My most regular contact with Senator Tierney has been through his role in the employment, education and training committees and his longstanding interest in education, which I know he has pursued through the parliament consistently while he has been here. He has built up an expertise and has worked very strongly in those committees in the parliament. I have always found Senator Tierney to be professional, motivated and assiduous in pursuing his interests, those of his constituents and those of the Liberal Party. I served on a committee with Senator Tierney and Senator Carr. It was one of the most entertaining periods of my service in Senate committees in that Senator Carr and Senator Tierney developed such a close working relationship and always got on so well. It was always a delight to see the two of them working cooperatively in the interests of the Senate. I am sure Senator Carr will also miss Senator Tierney’s contributions enormously.

I am sure Senator Hill will do justice to Senator Tierney’s service in the parliament. I just want to acknowledge on behalf of the opposition the role that he has played. I sometimes find some senators a little hypocritical in that they only say nice things about people once they have retired. One of the things that really annoys me about this chamber is that people always welcome back visiting senators, a couple of months after they have left, whom they abused while they were here. I have always found that a very disconcerting and false sort of process. But I think we all accept that, despite different political views, there are relationships across the chamber. I think there is acknowledgment across the chamber of people’s effort
and contribution. I certainly want to acknowledge Senator Tierney’s contribution to this place and wish him well. I know he and his family have been active in the community and I am sure that he will continue that work. I wish him and his family the best and thank him for his service to the parliament. As I said, I hope he does find a successful and rewarding life outside parliament.

Valedictory: Senator John Tierney

Senator HILL (South Australia—Leader of the Government in the Senate) (7.02 p.m.)—I would like to say a few words on the retirement of my friend and colleague John Tierney. I have known John for the 14 years that he has served with us in the Senate and I am pleased to be able to call him a friend as well as a colleague. This is a little bit of context: I only learned for the first time tonight that John aspired to be a senator at the age of 14. Usually life moves in mysterious ways and our aspirations are not necessarily achieved, but I guess that if that was his plan from a very young age it must have been with a great sense of achievement that John became a senator. When you look back at his upbringing, education and early role in party politics, you see a person of great determination. It now seems to me to be obvious that he was always going to be a senator.

John probably does not want me to say this but he contracted polio at birth and therefore he had an added burden in his younger years that most of us do not have to endure. I guess that that is part of the determination about which I just spoke. He progressed well through his education, with a Bachelor of Economics, a Master of Education and a PhD in education from the University of Sydney and the University of Newcastle. He was appointed as the youngest university lecturer at the age of 23. So, again, we see someone of not only considerable capability but also great determination.

In his early involvement in politics with the Young Liberals you see the same spirit. I have been told a story that suggests that perhaps his first foray into politics was nearly his last. In 1964 he led a protest against ALP plans to jail shopkeepers for Sunday trading. Apparently, he and the 30 Young Liberals he was leading found themselves in the middle of a 500-strong ALP campaign launch. It took the assistance of the local police to rescue John from that encounter. We are pleased that he survived and that he continued with his political ambitions.

John came to us, as I said, 14 years ago after working his way up through the Liberal Party organisation in New South Wales, where he made a considerable contribution. Not surprisingly, we saw him as somebody who had a great knowledge in education matters and we wished to use that to our party’s advantage. We also believed that that could be used, through our party, to the national advantage through work in the Senate. We certainly have not been let down in that regard. John has been arguably the best informed education speaker in this place for a long time. I am pleased I can say that with Senator Kay Patterson out of the chamber. ‘Arguably’ covers Kay and perhaps one or two others.

Certainly, John is always well informed in the education debate. Whether it is school education, preschool education, vocational education, higher education or whatever, he is well informed. He has contributed in a substantial way, through the Senate committee system, through our party and through backbench processes that he has been deeply involved in, to solutions that he regarded as being better for education and therefore better for all Australians. His contribution to Australian politics within the education sphere is something of which I believe he can be justifiably proud.
He also decided, upon coming here, not to limit himself to education but to adopt the field of communications as a second string to his bow. That coincided with the time of the communications revolution, and John Tierney became extremely well informed and made a major contribution to the parliament’s contribution, in turn, to the communications debate in this country. In that area he was a great asset to us as well and contributed to better communications policy and information technology policy in other areas of that field within our country.

I think of John in a number of different areas. Firstly, I think of him in the area that I have mentioned, which is his substantial contribution to important policy areas in the Senate and parliament. He looked to make a contribution that improved people’s lives. He is an example that you can very effectively use the opportunities within the Senate and its committee system, in particular, to make a contribution to public life in Australia. He did that very well.

Secondly, I think of John as someone who has been a major contributor to my party, the Liberal Party of Australia, for a long period of time. He has had his highs and lows within the party. Senator Payne might be better qualified to speak about some aspects of the highs and lows within the New South Wales branch of the Liberal Party of Australia, but John was always participating in the forums of the party, putting forward his ideas. He was always a person of ideas, wanting to engage in the policy debate. He occasionally slipped into the numbers game—again, with mixed success but not bad success for 14 years. He is somebody who has made a significant contribution to our party.

Thirdly, I think of John as somebody who, for a very long time, fought for the community of Newcastle and its surrounds. He fought for their interests, and I have seen many examples. After the BHP closure, it was John Tierney looking for a new future for Newcastle. I can think of particular businesses that John Tierney helped to support—Stuart grand pianos comes to mind. I can think of important heritage issues such as Fort Stratchley in Newcastle, to which he was committed to see conserved and renovated. He has been a great fighter for that area. He was always determined to see Newcastle turn blue. He did not quite achieve that.

Senator Tierney—Not yet!

Senator Hill—Not yet, as he says, but he has certainly helped us win campaigns in the surrounding areas of Newcastle. I know that wins in Paterson and Dobell were very important to John, and they gave him greater determination to plug on with Newcastle. We will not lose him from that campaign, I am pleased to say, because I know that John Tierney will never give up politics, and he will continue until Newcastle does turn blue.

In concluding, I have a couple of other points to make. I would like to mention his contribution to the National Library of Australia, which fits in with his education contribution. That has been very important. I would like to mention the strong moral values that he brought to his contribution to Australian politics. We know the line he took in relation to online gambling, and there were others. His positions were always based on a strong set of personal values, and I think that is very important in politics.

Lastly, I would like to mention his wife Pam. The Tierneys were always a team in politics. Now that John is retiring from the Senate, we will not see as much of either John or Pam. We hope we will still see them around the place. At functions where we brought our spouses together we often had the pleasure of Pam’s company as well, and
we witnessed the way in which she supported John throughout his political career. There was never any doubt about John Tierney’s strength of character, but I think Pam might be just as strong, if not stronger. They came to politics with great determination, and I would like to think that, as a team, they can look back on having achieved a great deal over the last 14 years. With those few words, I wish John and Pam all the best for the future.

Valedictory: Senator John Tierney

Senator ALLISON (Victoria—Leader of the Australian Democrats) (7.12 p.m.)—On behalf of my colleagues, the Australian Democrats senators, I am pleased to join in this acknowledgment of the contribution made by Senator Tierney to this place. John, I understand that you filled a casual vacancy after the resignation of Peter Baume in 1991, and that makes 14 years of service in this place, which is no small length of time. I also understand that you joined the Liberal Party at the age of 10, having heard the Prime Minister of the day, Mr Menzies, on the radio. I was told that he was speaking at the opening of a poultry convention. That is quite something. We have some young members, but they are certainly not as young as 10. That shows a great deal of commitment at a very early age.

John, I know you best from being a fellow member of the education committee. I have appreciated your input into that committee over the years since I have been on it, since 1996. It has been obvious to most of us in this place that you are a very strong defender of your local area, and that of course is the Hunter Valley. We have heard a lot in this place about Newcastle, and we have heard a lot about the Carr government and its appalling behaviour, whether it was on education or in any other area. You have used this place, as we all do, to make points about the governance of your own area. You have been interested in employment and economic matters and mental health services. Most recently, I worked with you on the development of the terms of reference for our mental health inquiry, and I thank you for your contribution to that. It is something of a pity that you will not be on that committee to see it through. I think it will be a fine committee and it is a good inquiry, and I think the outcome will benefit many Australians.

You have also been very interested in the Kosovar refugees. They were given accommodation at the Singleton Army base, and you had quite some involvement, as I understand it, with those people. You have had a longstanding interest in disability education. Along with many other references to the education committee, this was an inquiry that you were keen to see undertaken. During the period that you were on that committee with me—I am still on it—we put together a number of references that the committee pursued. I think that is somewhat unusual. It is not often that government senators give so many references to a references committee, but you did. That was partly due to your persistence and your persuasive arguments. I congratulate you on that.

I acknowledge the presence of Pam in the chamber. I met you on just one occasion, and that was on one of those inquiries. I think it was when we went to Maningrida in the Northern Territory, in one of the most remote areas, inquiring into Indigenous education. I wondered how that was for you. I could not imagine bringing my partner along to an inquiry, but you were very much welcomed there.

More recently, Senator Tierney has taken up the cause of Lifeline. Pam, as we all know, is the CEO of Lifeline in Newcastle. I had an email just the other day saying that others of us should take up your bill, present
it to the parliament and see it through so that Lifeline continues to get free telephone services. I am not sure, Senator Tierney, how you regard me, but you did some time ago say:

The last time I said something nice about a Democrat was at the valedictory of Karen Sowada; she had the makings of a great parliamentarian and her loss was a great loss to this place.

Robert Bell preceded and followed Karen Sowada as a member of the Senate Standing Committee on Employment, Education and Training. I found them both a delight to work with on parliamentary committees, unlike the Neanderthals who appeared and disappeared quite often from the Labor side of those committees.

You, obviously, will not be around for my valedictory, so I will not know how you feel about my contribution. But I certainly do remember the many somewhat testy occasions on which you and Senator Carr engaged in the Senate estimates process and the education inquiries of various sorts. They are legendary.

I want to acknowledge your work on what I think are the key inquiries that the education committee conducted: the inquiries into education for gifted children, education for the disabled and, as I mentioned earlier, education for Indigenous Australians. The findings of that committee in those inquiries were central to improving education for those groups of people. But there were many other inquiries. That is a very busy committee that has conducted a number of inquiries. I acknowledge your contribution to setting up those inquiries, the conduct of them and the writing of the reports. That has been most valuable. I wish you well in whatever you do next. I hope it is as interesting as this 14-year career has been. I am sure it will be. I hope you enjoy your time away from this place.

Valedictory: Senator John Tierney

Senator KNOWLES (Western Australia) (7.18 p.m.)—I rise tonight to join the valedictory comments about JT, as I have affectionately called him since he has been here. I recall speaking on the valedictory for your predecessor, Senator Peter Baume. It is a bit disturbing to think that I have outlasted both of you. When I heard that Senator Tierney was leaving I thought, ‘Why on earth would he be leaving so early?’ And I heard that you had some fantastic, you-beaut job. But I thought, ‘No, it’s got nothing to do with that; he’s just trying to get out of another round of estimates!’ Your cover was blown, but I do realise that you are moving on to bigger and better things.

You came into this place with great credentials, and I think it is fair to say that you will be leaving with even greater credentials. Your contribution in this place has been absolutely outstanding. Apart from making a contribution as a parliamentarian, a policy maker and a decision maker, you have made a contribution as a good bloke. It is a testament to anyone who comes into this place if they can mix the lot. Senator Tierney has certainly been able to do that—he has been a thinker, he has been a doer and he has been a mate to a lot of us. Such attributes make the Senate and the parliament a better place. If we could all leave having achieved that measure of success, we should all be very satisfied.

This is interesting. I have not served on too many committees with Senator Tierney, but one that I did serve on fairly early in the piece was the Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies. Some called it the smut committee, I have to say, because it used to look into various issues of pornography, film censorship and things like that. As Senator Hill said this evening, Senator Tierney took a second string to his bow and took on the communications interest. Here was this relatively new chum coming into the community standards
committee talking about computerisation and this thing called the information superhighway that was going to come storming down to greet us. I remember Senator Denman and I looking at each other, raising our eyebrows and grimacing, thinking: ‘At least he knows what he’s talking about. I wonder what this superhighway is. What truck is going to come trundling down and run us all over?’ John had really grasped the whole issue of computerisation while we were still using typewriters.

It was a very interesting committee—for a number of reasons, I might add. I did not realise there was so much smut on TV until I would go to the committee meeting the next morning and learn from other colleagues how much smut had been on TV the night before. But I thought John’s contribution was very interesting, from the point of view that he had grasped not only what the information superhighway was going to do to the world but what impact it was likely to have on children and on the issue of pornography. It is very interesting to think that here we are, probably 12, 13 or 14 years on, and OperationAuxin has made the biggest bust of child pornography on the internet that has ever happened in Australia, and this was an issue that SenatorTierney was warning the parliament about all those years ago.

As a fellow departee—you have beaten me to the gun—I have to say to Senator Tierney and to Pam that you have been a great political team over many years. The contribution that you have made to the party, to many marginal seat campaigns and to policy outcomes does not come about by sitting around and watching. As I said, you have been a thinker and a doer, and I acknowledge the work that you have done not only in the parliament but also in the organisation. Your motto has always been ‘press on and never give up’, and you have certainly lived by that motto.

You have been faced with what some would consider a disability but, having played tennis with and against John Tierney, I have to say that he has no disability, believe me! When you play with him he makes you do all the running; when you play against him he makes you do all the running. I think it is a very interesting sideline, and he is a very good tennis player, despite what some would call a disability. I have never looked at you, Senator Tierney, as someone who has a disability. Thanks for the friendship and thanks for the contribution to the Australian parliament. For and on behalf of the people of New South Wales, good luck to both you and Pam. I hope to see you on a continuing basis in the future.

Valedictory: Senator John Tierney

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Industry, Tourism and Resources) (7.24 p.m.)—I too would like to add my sentiments on the departure from the Senate of Senator John Tierney, from one JT to another. I am sure that we will not have seen the last of you, John, and we hope to see you around the corridors in your new incarnation. Both in and out of parliament you have been an extremely active campaigner for not only the progress of education but also the progress of information technology.

When I first came into the Senate in 1993, because of my previous experience as a teacher—and I have always been gratified by the fact that you and I have come from an education background—I joined what was then the Senate committee for employment, education and training. The element of workplace relations was a later addition. I think one of the first inquiries we did in those three years that I was in opposition was our famous inquiry into long-term unemployment, when, if you remember, you and I trailed around the countryside on a Labor
Party led inquiry into the causes of long-term unemployment. Of course, in those years, unemployment stood at over 10 per cent. I am delighted—and you would be equally gratified—to see that in your time in the Senate unemployment has gone down to 5.1 per cent.

As Senator Knowles remarked, even with your foresight about information technology, the spectre of mature aged unemployment certainly raised its head. We had several representations saying that people over the age of 40 may well regard themselves as being on the scrap heap. I am very glad for both your sake and mine that that is obviously not true, but it is interesting that nowadays this is still a question for debate as we decide what to do about that.

John, you will also remember that that particular committee was famous for the Tierney-Troeth amendment, whereby we decided that you and I were quite capable of holding hearings with simply ourselves present rather than with any other party in the Senate. That lasted a couple of weeks—at least until we got back to the Senate and it was overturned. But, if I recall, we had some very productive hearings during which you and I were able to add substantially to the knowledge of that Senate committee. But that was not your only inquiry on that committee. You have also dealt with youth employment, Austudy, adult and community education, early childhood education, Indigenous education and higher education, so I think it could be said that you have actually covered the field.

You, like me, have also been a patron senator in a regional seat. You and I know that looking after the candidate that you are presented with and fronting all those early mornings and late nights and keeping the party’s chances alive in what are often quite difficult seats for us nevertheless teaches you a great deal about grassroots campaigning. So it should never be said that senators are in a room of their own with no knowledge of real politics, as it were. You have been a wonderful campaigner for the Liberal Party in the Hunter region and you have certainly kept the Liberal Party’s picture and policies alive and well in that region. We should all thank you for that. It is an arduous job and I do not know that one is always thanked to the extent that one has put work into it.

You have made a tremendous contribution to the policy area of education, and I do thank you for that. You have also had your other interests in the environment, communications, IT and the arts. You have also been the parliamentary representative on the Council of the National Library of Australia from 1992 onwards as well as the parliamentary representative on the Council of the Australian National University from 1996 to 2000. We should all thank you for that.

I have always been pleased to see Pam so frequently at the Senate gatherings and I thank her very much for her company, which we have always enjoyed. I think with our two respective large families we have always had a lot to talk about—the joys of having a large family never cease, as we all know. So thank you, John, very much. I will be sorry to see you go and I sincerely wish you all the best for the future.

Valedictory: Senator John Tierney

Senator HEFFERNAN (New South Wales) (7.29 p.m.)—It is a very great pleasure for me to stand up and say a fond cheerio to John Tierney and Pam. John, it must seem like a long way from Wagga Teachers College to here, mate. He has a connection with the bush. He was at Wagga Teachers College.

John and I have spent a fair bit of time together in the Liberal Party. He was on the executive with me in the days when Ted Pickering used to get you blokes all organ-
ised—he never got me too organised. We then went to our first preselection together, which Marise would remember. There were 28 candidates—God bless them—and two days of speeches. After the first day—and John reminded me of this today, and I am pleased we are all here in the chamber now—I led the primary vote with 29, John had 28 and Marise had 27. The next day was the day that I learnt how to count. Thank you very much, John, for teaching me how to count politically. I got done over properly when it all collapsed into a primary vote. My sincere congratulations to John on that. It was a very wise decision of the Liberal Party in New South to send John Tierney to the Senate because he complemented the place with his grip, intellectual drive and academic background. John, I congratulate you with great sincerity.

I remind the Senate of two things about that preselection. The first is that you actually had the support of Bronwyn Bishop and her people. The second is that I gave John a bit of a fright in Macquarie Street one day. We were standing on the kerb in Macquarie Street waiting for a bus to go past and I grabbed John by the back of the coat; I had a fairly good grip on him. He thought he was going under the bus, which was one way for me to even the job out. I did give you a bit of a fright at the time.

John has represented Newcastle and the Hunter in a very special way. It has been at times difficult political territory. Since the last preselection John Tierney has been an impeccable template of party loyalty. Despite the disappointment of defeat in that preselection, and on behalf of the New South Wales division, I sincerely congratulate you. Not only the parliamentary party but the organisational party fondly thank you for your loyalty. It is a template other people should follow.

John, you and I were a pretty complementary team on our ticket because you were academic and intellectually driven: you would read the books and I would look at the pictures. John, through all of that, has found time—with the assistance of Pam—to raise a family of six children. To do all of the things that you and Pam have done and raise a family is just an almighty effort. My sincere congratulations. I hear that we will be seeing lots of you around the place, and we look forward to that.

Valedictory: Senator John Tierney

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (7.33 p.m.)—Genuine, able and without a hint of hypocrisy or humbug: that describes John Tierney. Many of the speakers today have mentioned John’s great contribution to policy and certainly in both the education and the communications fields John will leave a legacy to our country through his involvement in this parliament. John was always a very committed advocate for the causes in which he believed. He travelled very widely throughout our country. He attended and chaired many parliamentary committees in all parts of Australia, and certainly up my way in the north of the country anyone who ever appeared before any committee or grouping that John Tierney was in charge of or at always felt that they had been treated with courtesy and respect and that they had had the opportunity of getting their view across.

John, as I recall, was a member of our regional task force, which we worked very hard on before the 1996 election. John was one of those who travelled the length and breadth of country Australia with me and a group of others to highlight just how much the Liberal Party had to offer those people in areas of the country which had not previously supported us. John has always been a
very compassionate person and legislator. He has always shown a real concern and commitment for those less fortunate than us within our country. I am very proud that John Tierney typifies one of those people who I like to think are real Liberals. He promotes excellence, he promotes the individual, he encourages hard work and enterprise, and at the same time he has compassion, understanding and concern for—and he works for—the disadvantaged in our society.

My association with John on a more personal note, apart from those fabulously exciting Wednesday night dinners at that very exclusive and expensive dining landmark in Canberra called Lee’s Inn Chinese Restaurant, related to our joint interest in Newcastle and our joint interest in the advancement of the Liberal Party outside the capital. John’s commitment to Newcastle—he keeps telling me how to pronounce ‘Newcastle’, but I keep forgetting—his home town, was a passionate commitment. He genuinely believed in it and the people of that area knew that he genuinely believed in it. My association with the area was that, at that particular time in the cycle, I happened to be the minister with $20 million to spend in Newcastle. It was a program that, I suspect—I have never bothered to inquire too deeply into this—was created and urged by Senator John Tierney, the Newcastle senator, and which actually came to be because of him.

Senator Tierney—An excellent program.

Senator IAN MACDONALD—It certainly was an excellent program. Unfortunately, I have not had time to do as much research into my speech as I would have liked to do. But off the top of my head, there was the marina, the extensions to the airport, the business and the transport hub, the Stuart pianos, the wine pipeline—which was really a Tierney special, but the New South Wales government took all the credit and did not even invite us to the opening as I recall, even though it was our money that they used—the fire wagon—

Senator Tierney—Varley fire wagon.

Senator IAN MACDONALD—That is right, the Varley fire wagon. There were a number of other projects. I am not sure what history will say, but most of those projects should be named after Tierney. It should be the Tierney Newcastle Airport or the Tierney Marina or something like that, because quite frankly—although this will never really be known—it was John Tierney’s advocacy that achieved great things for those areas. I remember when the smelting works decided to close in Newcastle. I think we all as a nation were a bit concerned about that, but I remember John Tierney saying to me, ‘This is the best thing that has ever happened to Newcastle.’ I thought, ‘That’s a bit strange coming from someone who lives in the town.’ At the time, the local papers and everyone else were saying it would be death of Newcastle, but John said it was the best thing that had ever happened to Newcastle. I think history has proved Senator Tierney correct, in that the city, with his help and leadership, has gone on to bigger and better things and has really become a very significant and desirable part of our country. We cannot give Tierney all of the credit for that, but he certainly played a part in really moving Newcastle forward.

The other particular personal goal—passion almost—that Senator Tierney and I both had in our different states was to give the people of our states, and indeed Australia, outside the capital cities the choice of a different political party—a political party that offered, I think uniquely, the sort of philosophy that I know Senator Tierney himself has. Both of us were always very committed ‘coalitionists’—though that is not the word I am trying to think of. We both worked coop-
eratively with our coalition colleagues, in my case in Queensland and in Senator Tierney’s case in New South Wales, and although we understood them, liked them, got on well with them and supported them on many occasions, we did believe that the people of our respective states deserved the choice of a political party that they could follow at the election. That is one reason, amongst many others, why I am very sad to see John Tierney leaving us now.

I had not been quite aware of his long history in the party, but I am sure that history will continue. I know John will always be a great supporter of the principles, philosophy and government goals of the Liberal Party of Australia. John’s wife, Pam, was always a very significant part of the Tierney team—a great supporter of John himself but always a great motivator and doer in her own right. They formed a great team in the past, and I am sure they will do that in the future. My wife, Lesley, joins me in wishing John and Pam all the very best for the future. I am sure our paths will continue to cross, and I certainly look forward to that. All the best to Pam and you for the future, John.

Valedictory: Senator John Tierney

Senator EGGLESTON (Western Australia) (7.41 p.m.)—I would like to make a few short remarks about John Tierney and wish him well in his career after the Senate. I have always found John to be a great gentleman and somebody who has always had a very sensible view on the issues that have come before us in the Senate. I believe he is somebody who has made a good contribution to the affairs of the Senate over a very broad and wide range of issues. He has, of course, had a special interest in education, and his contributions to the education and workplace relations committee have been very important. We have shared a common interest in information technology. As I heard tonight, when John came to the Senate he did not know a lot about communications and information technology. That was also my experience, but when I came here I was certainly very much taken with the potential of IT. As Sue Knowles observed, John Tierney told everybody about the coming information superhighway, and it certainly has been something which John has contributed to in a very important way.

If I may say so, unknown to other persons in the Senate there has been something of a quiet tension and battle between John Tierney and me over which port in Australia actually has the largest export tonnage—Newcastle or Port Hedland. I have delighted at times in telling John Tierney what the export tonnage for the port of Port Hedland has been over the year concerned, and I have even offered to have the Port Hedland Port Authority put him on their mailing list and send him their annual reports, which he ever so politely declined. From what I have heard, given the enormous purchases of iron ore which China is now undertaking, it may be that Port Hedland is drawing ahead of Newcastle in terms of tonnage. I think I will always remember John Tierney in terms of whether Newcastle or Port Hedland is the port with the largest export tonnage in Australia. As I said, John Tierney is somebody who has made, in my time, an excellent contribution to the affairs of the Senate, and I certainly wish him well in his new career.

Valedictory: Senator John Tierney

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (7.44 p.m.)—I would add my comments to those of previous speakers who have come to praise John Tierney. My few comments are completely unscripted and perhaps not put as elegantly as I would have otherwise liked, but I could not let this opportunity pass without re-
cording some of my thoughts on the contribution that John Tierney has made to the Senate and to the mighty New South Wales division of the Liberal Party. Just on that point, Senator Tierney has been an active member of the Liberal Party for over 42 years, starting out in student politics whilst at university. So he is somebody who is steeped in political interest and political savvy, which found him inevitably wending his way into elected office.

I understand that his first office-holding position was in 1973 in the Newcastle area, after he had joined the academic staff at the University of Newcastle—which was, I suspect, not the most hospitable of places to be a Liberal in those days. He became a senator in 1991 and has had a distinguished career in all respects. He was parliamentary secretary to the shadow minister for communications and IT in 1994 and 1996. So I have been motivated to speak also because he has a vast knowledge in the area of my portfolio, which is communications, information technology and the arts; in all three areas, he has excelled in his contribution. He knows a great deal about communications—despite Senator Conroy’s burgeoning knowledge and interest, perhaps even he could learn something from Senator Tierney.

Senator Conroy—Dwarfed by Senator Tierney!

Senator Ian Macdonald—It wouldn’t be hard.

Senator COONAN—Certainly I can benefit and have very much benefited from his wisdom in a number of areas. I am sure that earlier speakers have gone through his distinguished contribution and career in the Senate. But one of the things which characterises Senator Tierney—and it is the thing I particularly want to pick up on—is the extent to which, right throughout his career, he has been able to identify a cause or an issue of importance to a community and then to not only gain some expertise in it but also be almost inexhaustible in the way he pursues it. That can be found particularly in his interest in mental health issues—which, I must say, is also an area very dear to my heart. But I cannot even pretend to have made the kind of contribution that Senator Tierney has made in these areas. I can say, without fear of contradiction, that he is certainly the most prolific advocate of mental health causes that this Senate has seen in many years.

We have all benefited from his activity and energy for 15 years. He is someone who is always prepared to take the fight up, wherever it is required. He is always there when needed. He is someone whose enthusiasm for what he does is quite infectious. He disguises, I think, a slight disability and shows that people can overcome certainly a physical disability such as he has had. He has been a keen tennis player and, as he says, has succeeded because he has been so accurate where others have had to rely on speed. I think in many respects that personifies his entire Senate career. His accuracy, his dedication and his persistence have won through in so many ways. He has been interested and active in workplace relations, in rural and regional issues and foreign affairs and trade.

Just as a farewell performance, he gave me the rounds of the kitchen on Telstra and Lifeline. But in that regard I happen to be very much on his side—as, indeed, with his wife Pam, he is very committed to all that Lifeline does. We never come to this place without the support of others. I am sure that others have also mentioned that Pam Tierney has made perhaps in many ways a shadow contribution to that of John’s, but it is my great pleasure to acknowledge her role in making a team. Together they have made a very great contribution to our Senate family.
Having already made a sustained and important contribution, John, I know that you are going to continue in another field. We know your chosen endeavour and I am sure that you will be very good at it. Having been part of our Senate family, I am sure that you have our respect, affection and good wishes—and I say this not only on behalf of your many friends in the New South Wales division but also on behalf of your Liberal Senate family. I am sure that all senators wish you all the very best.

**Valedictory: Senator John Tierney**

**Senator TCHEN (Victoria) (7.49 p.m.)—**

As a senator who has less than half the service of that that Senator Tierney has given to the Senate, it is probably not appropriate that I should be one of those senators saying anything at his going. However, I have shared three circumstances with him that give me some confidence in claiming a degree of acquaintance with his work and with him as a person; I think they allow me to say a few words on his second to last day here.

The first circumstance is that, even before I came into the Senate, in the wisdom of the Senate I was appointed to a number of committees, one of which was the Employment, Workplace Relations, Small Business and Education Legislation Committee. As it happened, that committee was conducting an inquiry into one of the numerous workplace relations bills I have seen in my time here. The first serving senator and colleague I clapped my eyes on was Senator Tierney. On that committee—I continued to serve on it subsequently—as Senator Evans has said, there was a cooperative effort undertaken by Senator Tierney and Senator Carr. Certainly I was very impressed by Senator Tierney’s knowledge of that particular portfolio, both in its aspects of education and workplace relations. He would always speak out confidently on those matters and he was always worth listening to. In the case of Senator Carr, he speaks out whether he knows anything or not. So that was an interesting committee to be on.

The second circumstance I share with Senator Tierney is to do with one of his main contributions to politics in Australia—that is, his electoral service to the Hunter region. In his case it was because of his surplus energy. He found that the demands of work in the Senate, on committees and in the chamber, were actually unable to satisfy him. So he spent a great deal of time nursing the electorates of the Hunter region. I spend a fair bit of time on electoral work in my duty electorates in Victoria as well, but, in my case, it is because I am pretty well not able to do many other things and that was the one thing I could throw myself into. I did learn a great deal from Senator Tierney.

There is one thing that perhaps not too many people know about and I hope Senator Tierney remembers it. As a member of the environment and heritage committee I was on an official delegation to New Zealand a couple of years ago, and Senator Tierney came along. On the official brochure of the program—it was actually prepared by this parliament, I think—all of us were described as senators for Western Australia or Victoria or New South Wales but Senator Tierney was described as a senator for Hunter. So that was an official recognition of his contribution.

The third circumstance that I share with Senator Tierney, with great honour on my part although not necessarily satisfaction, is the circumstances of our going. One thing I would like to say about Senator Tierney during the time I have been able to observe him is that he is a rare person in this chamber. I will make an observation: there is a bit of mongrel in every one of us, otherwise we would not be here. In politics, unless you can...
bite, you will be cast aside. The important part about working together with colleagues here is that, while you have that bite, you do not use it. Some people in this place use it quite indiscriminately and gratuitously. I am reminded of that by today’s press article about one of our colleagues who is about to leave and his comments about the Senate after his departure. It was a typical case of overuse of this mongrel part of one’s personality. What I would like to say about Senator Tierney is that, although no doubt because of his presence here he has that ability, in the six years I have observed him he has never had to use it. He has never had to call upon that. His standing in this place is based on his ability, his contribution and his personality. That is something I really admire. I think that should be something we all remember him by.

**Valedictory: Senator John Tierney**

Senator BARNETT (Tasmania) (7.55 p.m.)—I stand tonight to acknowledge the contribution of Senator John Tierney. I have only been in this place a little over three years. Upon my appointment, I was placed on the Senate Employment, Workplace Relations and Education References and Legislation Committees. John was chairman of the legislation committee. I enjoyed working with John on that committee over those three years. I remember two particular inquiries for which John and I spent quite a deal of time travelling Australia together—the small business employment inquiry and the skills shortage inquiry. John has always been welcoming and friendly. In some ways, as a senior and more experienced senator, he has in part provided a mentoring role to me as a junior senator. Certainly, as chairman, he showed great professional skill, political acumen and at times great courage, because Senator Kim Carr was on the other side in many instances and kept Senator Tierney and, indeed, the members of our committee on our toes. On behalf of the secretariat of that committee I want to thank Senator John Tierney for his chairmanship and acknowledge the contribution he has made over many years to that committee. In particular, I want to acknowledge his strong interest in the area of education. I know that will continue in his next chapter.

I want to acknowledge his friendly and welcoming approach to me, particularly in my first year as a senator, in terms of showing personal support, care and interest. In fact he encouraged me onto the tennis court. We have played a few games of tennis, Senator Tierney, you will remember. I did learn that, if I hit the ball to you, I was indeed in great trouble because you had much skill when you were able to move to the ball and hit that winning shot. I suppose I did not learn my lessons too early, to my regret and shame. I do recall beating you once or twice on the tennis court. John, you have demonstrated a good amount of support and encouragement to me over the last three years. I also acknowledge your special interest in the mental health area—and you know of my interest in health issues—and in particular your interest in Lifeline. I acknowledge Pam, your wife, in that regard as well.

Just a week or so ago I met in this place a would-be member of the Liberal Party from the Hunter Valley. He said, ‘John Tierney is still chasing me to join the Liberal Party in my local branch.’ You know who that person is, Senator Tierney, because I have mentioned it to you. I was certainly warmly surprised by that indication by someone from this wine growing region. He said, ‘John Tierney is onto me to join the Liberal Party.’ I mention that to you, John, and congratulate you for your support for the Liberal Party and your ongoing encouragement to those in the Liberal Party and those who wish to join. Finally, I acknowledge your contribution to the Hunter Valley and the Newcastle area in
particular. Thank you for your support and encouragement to me over three years and I wish you well for your future time together with Pam and your future chapter.

Valedictory

Senator TIERNEY (New South Wales) (7.59 p.m.)—Thank you all for your very kind words. It has been an honour and a privilege to serve in the Australian Senate for the last 14 years. It has fulfilled a life ambition that took root in my early teens. I recall at the 1961 election debating people who were critical of politics and politicians. I debated them because they were criticising my future profession. This marked me as an unusual child.

My fascination with the political process started even earlier. Just before turning four, at the 1949 elections that swept the Menzies government to power, I followed my returning officer father around on election day observing the political process. I watched with fascination as my father, Jim Tierney, Principal of Eden Central School, melted red wax onto the string of a steel ballot box and then stamped the official seal into the wax after locking the boxes. This absolutely entranced me as a four-year-old. At age 10, I worried about Australia’s role in the Suez crisis and, at 15, I worried about the future of Australia’s trade, with Britain’s entry into the common market. So it came as no surprise that, at the conclusion of my first lecture in Government 1 at Sydney University, I asked the lecturer where I could join the Liberal Party.

Within a year I was leading a Young Liberal demonstration against ALP Premier Jack Renshaw from the floor of Paddington Town Hall. You Labor people think you can make this place tough. You should try the floor of Paddington Town Hall. Premier Renshaw was launching the 1965 ALP election campaign. On my part, it probably was not a wise political move, as the hall was filled with 500 rabid ALP supporters. The picture on the front page of the Sydney Morning Herald on 16 April 1965 showed a much slimmer but rather dishevelled future senator on the front steps of Paddington Town Hall following his rescue by members of the New South Wales Police Force. That was the start and nearly the finish of my political career.

At about this time, as a Young Liberal president, I met a very lovely Young Liberal secretary from the nearby branch—and my wife, Pam, joins us here in the advisers’ box this evening. It came as no surprise to Pam that, at the end of the 1966 campaign, following a hard day at the polling booths, which swept the Liberals back to power, I would use such a romantic occasion to propose marriage. She accepted—I think because earlier that day, in the seat of Kingsford Smith, I had saved her life when she had injudiciously called one of the ALP booth workers a rat, not understanding the significance of such a label when applied to a member of the Labor movement. I see my colleagues opposite nodding. So I had two near-death experiences within two years in service of the Liberal Party.

Almost 40 years later, Pam still supports me in my political career. Pam, I would likely to publicly acknowledge your crucial role as the wind beneath my wings over this time. Our greatest test was in 1991 when I was selected for the Senate on a Sunday, arrived in Canberra on Monday and was sworn in on Tuesday. Pam was then a senior departmental officer with community services with six children at home and was left to cope with my sudden departure. We discovered months later that our youngest daughter—a nine-year-old—thought we had separated but had not told her. Political life is incredibly tough on families, and the parliament should take a hard look at a way of easing their stress and strain as we fulfil our
ambitions and serve the nation in this par-

lament.

My ambition was always to be a senator, and in preselection I only ever ran for Senate vacancies—something my colleagues in the House of Representatives find difficult to understand. But my time in this place has fulfilled my every expectation and more. Coming from the university sector, I discovered that this place was far better resourced. The support of my own personal staff over 14 years, committee secretariats, the Clerk’s office, the library, Comcar drivers, the attendants and other support staff make a very challenging job just a bit easier because of their very highly professional approach to their work. The standard of public service in this place is extremely high and prepares us well for our work.

But there are many similarities here to the university which I came from. As members we learn so much and we have to grapple with issues that we may normally not even think about. The few issues on which we have been allowed a conscience vote have been the most interesting—and I refer particularly to the euthanasia and stem cell research debates—and have all sparked many passionate contributions in the chamber, the party room and indeed around the corridors. One exchange of views I overheard in the lobby during the euthanasia debate included one senator quoting the Old Testament to support his view and another senator quoting the New Testament to support the opposite view. In the end, the debate came down to each member weighing up the balance of their political philosophy and/or religious belief and their own life experiences to come to a final judgment. There have been only two such debates in my time here, and there should be many more.

Some issues in which I have become heartily involved and influenced the national outcome have actually come out of a clear blue sky and have been a result of national and international events. In an earlier meet-
ing in the President’s courtyard, Parliamentary Secretary Kay Patterson recalled one such issue. She rang me at 12.15 early one morning. There had been trouble at the Singleton Safe Haven for the Kosovar refugees and she asked whether I as parliamentary patron could go and sort it out. Sabat Sahul was refusing to allow his family to get off the bus and accept Australian hospitality. This was the lead story for three days across the nation as the press pursued Sabat Sahul’s sit-in and then his departure and escape through the Australian countryside. I sud-
denly found myself in the media front line, as all the DIMA officials had taken three steps backwards. Trying to settle this situa-
tion down involved frequent visits to the camp with my wife, Pam, whom the Kos-
ovars called ‘Senatora’—that is the feminine for ‘senator’—taking her to their hearts, par-
ticularly after she delivered a five-minute welcoming speech in fluent Albanian. That is a long story which we will not go into here.

Other memorable Hunter Valley events have been referred to tonight. Events also of great national significance that I had the chance to be involved in included BHP shut-
ting down their smelting operations in New-
castle, the closing of National Textiles and the Hunter economy going through some very profound regional adjustments as a re-
sult of the forces of globalisation. Being in the front line of the government’s response was such a challenge, but it has been very rewarding to see the Hunter transform from an employment ugly duckling into a swan during my time on the Hunter watch.

I particularly wish to acknowledge the support of the responsible minister, Senator Ian Macdonald, at this time. Having arrived in the Senate from the university sector I thought I might move away from education
and tackle some other policy issues. It was not to be, because much of my committee work over the last 14 years, of course, has been in the area of education. Things started harmoniously enough with me, Senator Karin Sowada from the Australian Democrats and, curiously, Senator Terry Aulich from the ALP all determined to do in the then ALP government in this policy area. It was a great team. That was all to change with the arrival of Senator Carr. Kim Carr replaced Senator John Button. Whenever my colleague Senator Ian Macdonald became annoyed with Button he would call out across the chamber, ‘Bring on Kim Carr.’ One day, Button leaned back and said, ‘You’ll be sorry.’ We were. Listening to Senator Carr asking education and employment estimates questions from 9 a.m. to 11 p.m. day in, day out is one aspect of Senate work I will not miss.

The committees often disagreed in areas of inquiry, particularly in the area of workplace relations. I have now chaired six inquiries into unfair dismissal. I call it groundhog day: same witnesses, same evidence, same outcome. This will change after 1 July—it is a pity I will not be here to see it. With the education inquiries, however, there are some very nice bright spots—setting up three terms of reference into atypical children: the gifted, children with a disability, and Indigenous education. It was a moment of great personal satisfaction when all three inquiries brought down recommendations which were unanimous across all parties. Sadly, the press rarely commented upon the good news when the parliament displayed such great teamwork. Sadly for democracy, they prefer to focus on the odd and the bizarre. But this threat to democracy has been something which we have tried to overcome in the political process with the great work we have done in the Senate. It is a great pleasure to have served here in the Senate with you all. It is something I will greatly miss but it has fulfilled all my expectations and it has been a great pleasure to be a senator for New South Wales.

*The remainder of the speech read as follows—*

When I arrived in the Senate one of my mentors was our Senate Leader Robert Hill. I would like to pay tribute to the leadership of our longest serving Senate leader. Robert, I have valued your friendship and counsel. One of his earliest pieces of advice to me was to have at least two policy strings to my political bow. Robert told me in 1991 that in his case it was A.G.’s and Foreign Affairs. I subsequently noted that he went on to become the Minister for the Environment and later Defence.

My second string was Communication and IT. This is a complex and fast moving field, which in the early 90’s few MP’s took much interest in. Over the years I have used study leave to examine initially something that Vice President Al Gore “invented” called the information super highway in 1994, through to information policy in leading nations in 2002.

On the way it has been fascinating to watch the dawning of the information age in Australia and through my Senate committee work to Chair or to lead from the coalition, a number of landmark inquiries including; online services; Pay TV; cross media ownership; the sale of Telstra, the ABC and Internet gambling where my dissenting report led to a ban.

Through these inquiries there is a strange mix between an adversarial and co-operative approach across party divides. The adversarial and co-operative culture also makes it difficult to form friendships in this place, much needed because of our separation from family and friends. One cabinet member left parliament citing loneliness as a major factor.
Harry Truman once said if you want a friend in politics get a dog.

Despite this I will miss working with some wonderful friends in this place.

Some are even from other parties and from the other place.

These have been often been formed on various overseas delegations, where working cooperatively is important for a positive outcome.

Bonds form quickly, particularly as was the case in one African delegation and one in Asia, you are moved around under heavily armed guard because of fear for your safety. Senator Minchin will well remember that.

These bonds across party lines endure after returning to this place.

People such as Michael Hatton, Sid Sidebottom from the ALP, Andrew Murray and Natasha Stott-Despoja from the Australian Democrats.

And David Hawker, and Teresa Gambaro from the Coalition side in the House of Representatives.

Also from the coalition in the Senate I also wish to acknowledge the loyalty and support of our President Paul Calvert, our leader Robert Hill, Marise Payne, Ian Campbell, Alan Eggleston, Alan Ferguson, Rod Kemp, Sue Knowles, Helen Coonan, Ian MacDonald, Kay Patterson, and Judith Troeth; particularly after last year’s travail.

In this context I would also wish to acknowledge my gratitude to the Prime Minister John Howard who made the first phone call to me within half an hour, of the result.

During my 14 years in this place I spent the first 5 years in opposition and the last 9 in government.

It was a shock to learn last week that 2/3rds of government MP’s have never experienced opposition.

This is a pity.

Because if they had, they would not want to go back ever.

It has been an honour to serve in this government.

John Howard’s leadership has created a more prosperous and confident Australia.

An increasingly globalised economy and an evolving complex culture place before us the challenge of creating a more humane society.

The barometer for our progress I believe will be how we treat the most vulnerable in our society, particularly those with a mental illness.

When I leave the Senate, I will continue to follow and commentate on this issue.

So the time has now come to bid you not good bye but au revoir.

Because as I leave the public sector to join the private sector, I will occasionally return in my new role as game keeper turned poacher.

I look forward to continuing our long association.

It has been such an honour and a privilege to serve the Liberal Party and the Australian people in the Senate.

Tasmanian Symphony Orchestra

Senator O’BRIEN (Tasmania) (8.10 p.m.)—It is indeed a pleasure to follow the final contribution of Senator Tierney, who has been an opponent who has my respect from this side of the chamber. Tonight I rise in defence of the Tasmanian Symphony Orchestra against the government’s plan to put it on the chopping block—a plan to cut it down in size from 47 to 38 members and reduce its status to that of a small double wind orchestra. It is no surprise that the review of Australia’s symphony and pit orchestras produced this outcome. After all, it was commissioned by a Melbourne based minister who has never demonstrated interest, let alone commitment, to the arts in regional Australia.

Senator Kemp told his hand-picked review chair, Mr James Strong, that he must assume the continuation of government funding ‘at existing levels’. Specifically, the terms of reference provided the following:

The Review will assume the continuation of ongoing government funding support for the orchestras at existing levels and in similar proportions from the Australian and State Governments.
What this means—what it meant from day one—is that small orchestras with little capacity to generate additional ticket sales are in serious trouble under this government. Under the review’s terms of reference, the panel was forced to recommend that small symphony orchestras like the TSO downgrade their performance capacity. The capacity of small symphony orchestras to generate what the report calls ‘earned income’ is necessarily limited by the size of the populations they serve. In the TSO’s case, the population it serves is that of the smallest state in the Commonwealth of Australia.

In my view, the review commissioned by the minister was a sham from the outset—a sham because it could only ever generate one result, and that result is a recommended downgrading of Australia’s small state orchestras, including the TSO. How did I form the view that the terms of reference operated as a straitjacket on the review’s outcome? That is what the report itself says on page 62. Let me quote:

The review has been mindful of the constraint imposed by its terms of reference—that it should assume the continuation of ongoing government funding support for the orchestras at existing levels in similar proportions from the Australian and state governments.

On page 82 the report again notes the limitation imposed by the minister. This government is no stranger to sham reviews. Anyone familiar with the Estens review of regional telecommunications knows just that.

I want to tell the Senate about Tasmania’s reaction to the plan to axe the TSO—a reaction, I suspect, partly driven by the failure of the government to reveal the likely axing of the TSO before the last election. Just like the interest rate rise, it is one thing before the election and another after it. Today the Tasmanian Minister for the Arts, Ms Lara Giddings, declared that the TSO’s status as a symphony is non-negotiable. She made the obvious point that, if the TSO’s status were to be reduced, we would lose talented musicians to interstate or overseas symphony orchestras. That is a point obvious to those of us who care about the TSO but clearly not appreciated by those opposite, particularly the Tasmanian Liberal senators.

Liberal senators deserve to be singled out in this debate. Not once before the election did any of them—Senator Abetz; Senator Colbeck; Senator Calvert; you, Mr Acting Deputy President Watson; or Senator Barnett—reveal that the TSO was on the chopping block. Now they might say they did not know. But if so, just what do they do in the Liberal Party room? If it was good enough for Senator Kemp to put a few bottom lines about funding in the review’s terms of reference, why wasn’t it good enough to insert a bottom line about the survival of the Tasmanian Symphony Orchestra?

And why didn’t those Liberal senators from Tasmania stand up to Senator Kemp when the recommendation to axe the TSO was leaked in the weekend press? Instead, we have Senator Abetz promising to deliver a ‘robust response’ to the report. The only robust response from Senator Abetz I can remember was directed at members of the stolen generation when they dared to assert the truth about their lives. A robust response from Senator Abetz to cost-cutting measures by his own government? Don’t hold your breath.

The Secretary of the Musicians Union in Tasmania, Mr Denis Shelverton, has attacked the recommendation to downgrade the orchestra, noting—appropriately, in this instance:

… a long history of conservative governments trying to wreck the TSO.

This latest attempt is one that the people of Tasmania are determined will not succeed. Already, over 1,400 people have signed the
online petition on Premier Paul Lennon’s web site urging Senator Kemp to reject the recommendation to axe the TSO. Over the past few days I have been contacted by many Tasmanians, appalled by the TSO’s uncertain future. I will not identify the sources by name, but I will quote from some of the correspondence that I have received. One Tasmanian correspondent expressed his feelings this way:

How dare a government which is prepared to spend billions of dollars on stupid wars, causing misery on a huge scale, even contemplate saving a few pennies by destroying something which actually contributes to the quality of life, not only in Tasmania, or even in Australia, but much further afield.

A couple, who saw the TSO perform last Friday night, wrote to me in the following terms:

The concert, broadcast live around the nation by the ABC, gave pleasure to the audience and listeners alike. What was not obvious to the listeners was the standing ovation after their brilliant performance ... This orchestra is an icon for Tasmania and is known around the world as a superb, boutique orchestra and it is wrong to deprive the people of Tasmania and the world of this kind of experience.

Another Tasmanian couple expressed their outrage to me in this way:

Perhaps if Howard— that is the term used in the letter— cut back on expenditure on political propaganda, financing the unlawful invasion of Iraq, detention centres such as Nauru, countless, pointless and self serving “lap of honour” trips around the world there may be some money left to maintain priceless assets such as the TSO.

Another Tasmanian told me:

... as an educated Australian, a musician, historian and writer, my cultural needs are met by this truly amazing small symphony orchestra.

A number of people have highlighted the contribution that members of the TSO make to the cultural fabric of our state not just in their performances but in their teaching and support for community events—events which you, Mr Acting President Watson, will be aware of. One of Australia’s best known composers has written to me, expressing his concern about what he describes as an ‘astonishing proposal’. But perhaps the last word in my attempt to summarise the outpouring of emotion over the plan to axe the TSO should go to a concertgoer, who wrote to me last Friday night. His simple message to me was:

At the TSO concert tonight the conductor said “In Canberra they know how much the orchestra costs. In Canberra they have no idea how much it is worth.”

Notwithstanding the review’s restricted terms of reference, I cannot say that I am particularly impressed by the nexus between some of the report’s findings and recommendations, at least as they relate to the TSO. The report, for example, recognises that community demand for the TSO’s services is ‘quite healthy’ and that subscription levels have been maintained over recent years. In fact, the TSO enjoys the highest per capita subscription rate of any state symphony orchestra. It is self-evident that the cost of maintaining a symphony orchestra is high for a state the size of Tasmania.

The opportunity to significantly boost the TSO’s earned income is obviously limited by Tasmania’s small population and costs associated with travelling to the mainland to perform. But the fact is that the TSO has been successful in reducing its accumulated deficit over recent years, and has done so while maintaining its reputation as one of the world’s best small symphony orchestras. The proposed savage cuts would destroy the TSO’s reputation for excellence within its current repertoire. It is not a surprise that a review—commissioned by a Melbourne based minister and headed by a Sydney
based chair—has recommended that Tasmania’s orchestra gets the chop. It is not a surprise, but it is not good enough.

Senator McGauran interjecting—

Senator O’BRIEN—The Tasmanian Symphony Orchestra deserves better. Certainly the people of Tasmania do. But I am not surprised if a National Party senator from Victoria is happy that his symphony orchestras are maintained, while those of states such as Tasmania, South Australia and Queensland suffer.

The ACTING DEPUTY PRESIDENT (Senator Watson)—Before I call Senator Sandy Macdonald, I understand that an arrangement has been reached with the opposition parties for Senator Ferris to make a short statement.

Tasmanian Symphony Orchestra

Senator FERRIS (South Australia) (8.20 p.m.)—I seek leave to incorporate the President’s adjournment speech on a constituency matter: the Tasmanian Symphony Orchestra. Since it is traditional that the President does not speak in debate, he simply wanted to express his views to the Senate on this topic. I have circulated a copy to other parties in the chamber.

Leave granted.

The PRESIDENT (8.20 p.m.)—The incorporated speech read as follows—

I have taken the unusual step tonight to seek leave of the Senate to incorporate a statement about the future of the Tasmanian Symphony Orchestra (TSO). This is because I have very strong views about this matter, which is currently the subject of speculation in the press in my home state of Tasmania, and nationally.

As a Senator for Tasmania, I have received numerous representations from my fellow Tasmanians, together with interstate and overseas supporters of the TSO, since a partial disclosure of Mr James Strong’s review of orchestras was reported in the Tasmanian press late last week.

The press reports have indicated that the Tasmanian Symphony Orchestra would be “ downsized” to a smaller, “Chamber”-sized orchestra.

Together with my seven Tasmanian Federal Liberal colleagues, Senators Abetz, Colbeck, Barnett and Watson; Senator-elect Stephen Parry; Mr Michael Ferguson MP; Member for Bass, and Mr Mark Baker MP; Member for Braddon—I am firmly of the view that the TSO should not be downgraded in any way, shape or form. My very strong view is that the TSO should not be facing any cuts whatsoever.

The international reputation and acclaim of the Tasmanian Symphony Orchestra will be lost forever if it suffers any downsizing.

And I can tell all the Senate and all Tasmanians that the Minister for the Arts and Sport, Senator Rod Kemp, is fully aware of the importance—in so many different ways—of the TSO to our Tasmanian community.

In every communication that I have received on this matter, concerned supporters have told me the significance of these values, and the variety of different ways in which the TSO improves the quality of life for Tasmanians, and contributes to the cultural, economic and artistic fabric of our community.

While the TSO is obviously a state-based orchestra, it has developed such a culture of artistic excellence that it is no surprise it has built such a strong national, and international following.

A Taspoll survey in 2004 reported that 87% of the community felt that the TSO was a source of pride for all Tasmanians.

And I am proudly one of those individuals in the Tasmanian community who believes in the value of the TSO.

In particular, my wife is a keen lover of her TSO CDs, and we love the free regular concerts “Symphony Under the Stars”—as do so many other Tasmanians.

I am well aware of the unique nature of the TSO, and the range of contemporary and classical performances and recordings that it has brought to life in such memorable ways.

However, I would like to take a brief look tonight at the value of the Tasmanian Symphony Orches-
tra as part of the future of young Tasmanians, and
the opportunities that it gives so many young
Tasmanians, in many different ways.
I place it firmly on the record tonight that I am in
favour of the Tasmanian Symphony Orchestra
actively seeking to expand its horizons—not hav-
ing to face the uncertainty of funding cuts and
restructuring, for simple accountancy’s sake.
Mr Nicholas Heyward, the Managing Director of
the TSO, said on Tasmanian radio last week:

We need a symphony orchestra for the same
reason we need a football stadium, a library,
a museum and a university. People want to
live in creative and inspiring places....They
will go elsewhere.

Many Tasmanians will know me as a passionate
advocate for our world-class sporting venue Bel-
lerive Oval, and for encouraging, as much as I
can, its fullest utilisation for national and interna-
tional sporting events.

But make no mistake. Nicholas Heyward is abso-
lutely correct. Tasmania is a creative and inspir-
ing place. But people will go elsewhere—never in
our history has labour and capital been so mobile
and borderless.

Tasmania needs to attract people and retain them,
for the betterment of our community—not give
them reasons to stay away.

Proponents of AFL in Tasmania will tell us that
our footballing young will continue to drift away
from Tasmanian elite levels of competition, and
school/underage football will continue to struggle
simply because we remain without an AFL-level
team, based in our home state.

And in the same way, any downsizing of the Tas-
manian Symphony Orchestra will severely
weaken its ability to attract and retain the top-
class musicians, soloists, producers and conduc-
tors for which it is known.

It will also have a significantly stultifying effect,
in my opinion, on the future development of mu-
sical creativity and talent in my home state.

As John and Marilyn from Deloraine in Tasmania
said, in their email to me:

“... the Tasmanian Symphony Orchestra
boasts an enviable record of Chief and Guest
Conductors that in turn results in appear-
ances by guest soloists of the highest interna-
tional standing...The opening concert for the
2005 season is a perfect example of the abili-
ties and dedication of the Tasmanian Sym-
phony Orchestra. A varied program with an
outstanding soloist and a guest conductor at the
“top of the tree”—Matthias Bamert”

Any downsizing of the TSO will further weaken
the cluster of musical and cultural institutions
within the immediate precinct of its home, the
Federation Concert Hall in the heart of Hobart’s
waterfront—a permanent home for the TSO
which was built with the substantial financial
support of the Australian Government.

Individual members of the TSO also play such an
important role as teachers and mentors of the
young, creative, artistic members of our commu-
nity. These are the Tasmanian musicians of our
future—and we should not be in the business of
downsizing their opportunities!

The weakening of our musical community in this
way can only have one effect—our young artists,
composers and performers will lose sight of the
top level of musical excellence, something that
they can aspire to being a part of.

As is so often the case—we lose our young tal-
ented Tasmanians too early, yet again, to Mel-
bourne, Sydney or even international opportuni-
ties.

Australian composer Ross Edwards, AM, ex-
pressed his concerns over the reported recom-
menation to reduce the numbers of musicians in
an email to me:

“I’m astonished and alarmed by James
Strong’s proposal to cut the Tasmanian Sym-
phony Orchestra down to the size of a cham-
ber orchestra, thus severely limiting its repes-
toire and minimising its cultural impact.”

Mr Edwards, who has significant international
experience, is well-qualified to comment on the
international reputation of our Tasmanian Sym-
phony Orchestra. He continues:

“Just one of the very many reasons for pre-
serving the TSO in its present form is that it
has recently embarked on a series of re-
cordings of Australian music for ABC Clas-
sics designed to take our music to the world.
The project has already generated much in-
terest both here and abroad...the quality of performance and the freshness of the music is being recognised by an expanding audience for our work. A chamber orchestra, it must be emphasised, would be quite inadequate. I urge you to disregard this truly astonishing proposal.

I, too, have strongly urged the Minister to disregard the proposal to reduce the TSO’s size, which will reduce its ability to expand its considerable influence on the future of the cultural, economic and artistic fabric of our Tasmanian community—and on the future of our young Tasmanian artists, composers and performers.

As Don from Pipers River (the same region of North-Eastern Tasmania that gives us the famous Pipers Brook wines) put it in his email to me yesterday:

“Unlike other states—if you deprive us of our symphony orchestra we can’t just drive to the next capital city to hear their orchestra. We—adults and children alike—will be deprived of this unique experience.”

Tonight, I place on the record my support for the young people of Tasmania, and for their opportunities and future—a future which must contain a fully-fledged, Tasmanian Symphony Orchestra.

It is, as composer Ross Edwards put it,

“... an excellent orchestra with a high morale. It takes pride in its achievements and its status as a cultural icon. Moreover, it is of an ideal size to achieve the goals which have been set for it, all of which have been designed to benefit Australian culture both here and abroad.”

We need a full-strength, undiluted, upsized-not-downsized Tasmanian Symphony Orchestra for exactly the same reasons as we need any of the other sporting, educational, cultural and heritage institutions in my home state of Tasmania.

And, together with my Tasmanian Federal Liberal colleagues, I will continue to fight for this.

I thank the Senate for its courtesy.

New South Wales: Rural Medical School

Senator SANDY MACDONALD (New South Wales) (8.20 p.m.)—I rise tonight to speak about a proposal to establish a collaborative rural medical school traversing three important regional universities in New South Wales. The University of New England at Armidale, Southern Cross University and Charles Sturt University are proposing that a rural school of medicine be established, which would traverse the three campuses, which are all involved in training allied health professionals at this time. The main motivation behind establishing a rural medical school is to enable rural students to study medicine in a rural setting. As a consequence of studying medicine in a rural setting, those students are more likely to remain in regional areas to practise. The statisticians tell us that, unbelievably, a student from a regional area has nine times the chance of returning as a professional to a regional area once they graduate.

Achieving this outcome is imperative, as rural and regional New South Wales and Australia are continuing to experience a shortage of doctors. In my own community of Tamworth, new residents to the town are being turned away from doctors surgeries because their books are full. We must do more to ensure that GP numbers increase in rural and regional areas. Any family coming to a large regional centre expects good primary health care. Tamworth gets by—it has terrific facilities and doctors—but, clearly in such a large regional centre, we can and must do better.

The three regional New South Wales universities of Southern Cross, Charles Sturt and New England have the formed a working party which is currently in negotiation with the Australian government to secure funding for a feasibility study to look into the establishment of such a combined rural medical school. The students of the rural medical school would not only receive their medical education at a rural university but also undertake clinical experience at rural health cen-
tres and general practices in rural and regional areas.

One of the driving forces behind this proposal, Professor Victor Minichiello, Dean of the Faculty of Education, Health and Professional Studies at the UNE, has said the initiative would be undertaken in a consultative manner with the input of the rural communities, stakeholder organisations and existing medical schools and health services—and note that I said the UNE is already in the business of training allied health professionals at this time. So this initiative would be catering to what the community needs and wants rather than the theorists telling the community what it should have.

A multipurpose campus approach for a rural medical school has already been adopted internationally in the United States, Canada and Thailand. In fact, the Naresuan University in Thailand—of which a delegation recently visited the New England area—has developed its own successful rural medical school to train doctors and other medical specialists for regional areas in Thailand. Thailand, which is a very much decentralised country with about 65 million people, has seen the need for a specialised rural medical school to meet the needs of regional residents in Thailand.

Thai academics and health officials are committed to a working relationship with the University of New England to provide assistance in getting a similar project under way in Australia. Academics from both Thailand and Australia have visited to compare problems and discuss the answers. A collaborative rural medical school would work in conjunction with the range of initiatives already employed by the federal government to alleviate the shortage of rural doctors, who are working overtime to meet the needs of rural and regional residents.

A number of initiatives have been commenced by the government. The Rural Health Strategy was announced in 2000 and it provided $562 million to improve access to health services for people living in rural and regional Australia. At the time, this was the largest rural health program ever announced by a government. The strategy included increasing funding for the number of postgraduate training places in rural Australia for general practice. Also, to build on that, funding was provided to place practice nurses in country doctors’ clinics, registrars were paid incentives to train in rural areas, and doctors who continued to practise in the bush and set up outreach services were compensated. The government has also brought rural medicine into the 21st century, with assistance for health services to establish online links with other medical professionals and educational facilities. This broadens the ability of medics to reach remote communities and allows easier access to education resources.

The Australian government has been able to develop a number of scholarship programs and rurally specific study programs for medical students and other allied health professionals. There are three types of rural medical scholarships offered by the Australian government. The Rural Australian Medical Undergraduate Scholarship Scheme provides medical students from rural and regional Australia with $10,000 each year to complete a standard medical degree. While not bonded, these scholarships are reinforced through a rural mentoring program and membership of the Rural Health Club. There are 100 rural bonded scholarships provided each year, and they are awarded to medical students who undertake to complete a six-year stint at a rural practice at the completion of their degree. These scholarships are worth more than $20,000 a year. The well-known John Flynn Scholarship Scheme provides for 150 new scholarships each year, where stu-
Students commit to a two-week placement in a rural or remote community each year for four years. There are also various other nursing and aged care nursing scholarships, along with rural pharmacy scholarships, aimed to entice health students to practise in rural and regional Australia.

The establishment of a rural medical school based between the three regional universities—UNE, Charles Sturt University and Southern Cross University—will also work in well with some of the already established rural health policies of the Australian government. One of the most important of these initiatives is the university departments of rural health. The Australian government has provided $117 million over four years for the university departments of rural health, which work in conjunction with various universities and hospitals to ensure that medical students obtain practical experience in a regional setting. For instance, the Tamworth Base Hospital is the location for the northern New South Wales UDRH and allows medical students from the University of Newcastle to experience country life and work. This outstanding facility is to be formally opened by Tony Abbott some time in early April. While the University of New England has some involvement in the UDRH, its alliance with the facility could be greatly redefined and increased if a rural medical school were established.

In my home town of Tamworth there is an initiative to establish a pilot program. The local division of general practice is setting up a centre to allow doctors to move to Tamworth and start practising without the hassle of setting up their own clinic. The Australian government has recognised the need for such a centre and has granted the division Regional Partnerships funding to assist in getting the centre up and running. It is through all these initiatives that the Australian government is helping to decrease the shortage of doctors in rural and regional Australia.

A rural medical school is the next logical step in this process. I think it should have been done long ago. We have initiatives to encourage doctors to relocate to and settle in regional areas. This would be further enhanced if doctors were trained in regional areas, hopefully from whence they might come. As I said, if a student comes from rural or regional Australia and is trained and schooled in the country, there is the unbelievable fact that they are nine times more likely to continue living and working in regional areas. We must encourage any proposal that promotes bringing services back to regional areas. This proposal has been backed by The Nationals in New South Wales, and I stand here tonight to put on the parliamentary record my support for such a proposal.

In conclusion, a post-conference communique from the National Rural Health Conference, which was held last weekend in Alice Springs, states that we must not only try and encourage an increase in the work force supply but also look at the way our medical practitioners are working to serve rural and regional communities. Being trained in those areas makes that an even easier task. I believe that medical students who are from the country, study in the country and stay in the country will be better able to serve country communities.

Western Australia: One Vote, One Value

Senator MURRAY (Western Australia) (8.30 p.m.)—I rise tonight to speak about the campaign for one vote, one value in Western Australia. As many in the Senate are aware, the one vote, one value principle is one that has been strongly advocated by the Western Australian Labor Party over a very long time. It is a principle just as strongly resisted by The Nationals and some Liberals in WA
because they well understand that it will lower the number of seats that they enjoy in the country.

Within an accepted tolerance, one vote, one value applies federally and in every state and territory except Western Australia. In their last term of government, Labor failed to get one vote, one value up in WA. The re-election of Labor in February and a reconfigured upper house with three fewer Greens and all of One Nation losing their seats does give Labor a chance to try again. Labor are apparently going to try to revisit the issue before the new MLCs—that is, the members of the Legislative Council—take office in May, which makes the present five Greens and Independent Alan Cadby key determinants of the outcome.

However, Labor look set to distort their approach. During the WA state election, now newly re-elected Premier Geoff Gallop turned his back on his government’s old electoral principle in order to shore up some of Labor’s regional country seats. In fear of losing seats during the election, Mr Gallop offered a self-serving compromise in which vote-weighting would be maintained only in the vast Mining and Pastoral region, where four of the five lower house seats are held by Labor. The South West region and the Agricultural region are entitled to ask why they, and not the Mining and Pastoral region, should have to abide by the one vote, one value principle.

The Greens and the Independent in WA’s Legislative Council not only have the opportunity to try and shape the final nature of vote-weighting in WA, to reflect one vote, one value, or something near it, but also have a golden opportunity to wrestle much-needed other electoral reform from a Labor government that would normally reject greater accountability but will be so desperate to get one vote, one value up that it could end up being made to do the right thing, even for the wrong reasons—if only the negotiators are tough enough.

With respect to the much needed changes to WA’s electoral laws, I refer particularly to the areas of political governance and funding and disclosure. On political governance I nominate three proposals which I think the negotiators should try to force from Labor. Party constitutional requirements should be enforced. Fixed terms should be enshrined through a WA constitutional change. One vote, one value should be introduced into internal party affairs, and control of a party should be vested in its members.

In the advertising area I would nominate the following as negotiating items: that government advertising should be subject to the guidelines as laid down by the Commonwealth Auditor-General and that there should be a prohibition of misleading and deceptive statements in political advertising. On funding and disclosure, my proposals would include that professional political fundraising should be subject to the same disclosure rules as political donations. I would also push for significant improvements in disclosure by clubs, foundations and trusts, and there should be a prohibition on donations that have strings attached. Anyone interested in seeing these proposals elucidated should see my minority report on the inquiry of the Joint Standing Committee on Electoral Matters into the 2001 federal election. Those would be the things I would want in return for a one vote, one value negotiation.

WA’s electoral system remains a study in inequality and is a prime candidate for much needed electoral reform. WA retains a zonal electoral system, with votes in regional and rural areas effectively having a greater value than those in Perth and some towns nearby. It is an anachronistic relic of an era of qualified franchise that seems still to be locked in
In the Western Australian Legislative Assembly, non-metropolitan electorates account for 26 per cent of voters but for over 40 per cent of the seats. There are 17,283 voters in the Mitchell electorate, I am told, but only 9,415 voters in the electorate of Eyre—that is, a vote in Eyre counts for nearly twice that of a vote in Mitchell. In the state’s upper house, the malapportionment is even more pronounced. The average number of voters per member in the Mining and Pastoral region is 13,380. In the East Metropolitan region that figure is 53,509. So the vote of a person in the Mining and Pastoral region is worth nearly four times that of an East Metropolitan region voter. There are towns adjoining each other, just south of Perth, where the vote in one town is worth twice that of a vote in another town.

Yes, I do know the counterargument that is always thrown up: that Tasmanian voters have a massive voter advantage in their Senate votes compared to New South Wales, but that is between states. Within states, one vote, one value applies to Senate elections. Eight out of Australia’s nine legislatures broadly comply with the one vote, one value principle. If one vote, one value is good enough for the eight other legislatures, why is it not good enough for Western Australia, especially when it is accepted by The Nationals, the Liberal Party, the Labor Party, the Democrats, the Greens and every other party in those eight states and territories?

I must acknowledge the effort the Labor Party have put into furthering this issue. Since the 1960s Labor have been particularly strong on this principle in national and state elections, first introducing legislation in federal parliament in 1972 and 1973. Of course, we know that they were strongly influenced in that respect by the movement in America. By the nineties the one vote, one value principle had been introduced to all federal, state and territory electoral law, with the exception of WA.

In August 2002, in a speech at Macquarie University, Gough Whitlam described democracy in WA as a ‘monstrous misnomer’. At this time, WA Attorney-General, Jim McGinty, in a media release said that the ruling which disallowed the government’s electoral equality laws was very disappointing. He went on to say that the Australian Labor Party had stood for one vote, one value electoral equality for 100 years and did not intend to walk away from its commitment to that principle, remaining totally committed to electoral equality. As an aside but very much to the point, it is a pity that Mr McGinty does not apply one vote, one value in his own party, where, especially, nonmembers of his party are able to exert influence and have weight way in excess of many members.

Australia is a signatory to the International Covenant on Civil and Political Rights, article 25 of which confers the right ‘to vote and be elected at genuine periodic elections which shall be by universal and equal suffrage’. We as Australians have an obligation in international law to ensure that basic standards of democracy are observed throughout Australia. It would not be appropriate for the federal parliament to set out every detail for the conduct of state and territory elections. However, it is appropriate for our national parliament to exercise the external affairs power in section 51(xxix) of the Constitution to ensure that a basic standard of democracy exists throughout the country to bring us into line with our international obligations, especially when we all feel very strongly about the rights and values enshrined in the International Covenant on Civil and Political Rights.
Australia is an advanced democracy. We have come a long way in eliminating electoral privilege. We have come far from the days when huge sections of the community were denied the right to vote, and it is now accepted that the franchise should extend to all but a very few adults excluded on the grounds of incapacity or being in prison. Equally important is the principle that all votes should carry equal weight. It is untenable to resolutely defend the right of all Australians to vote, while at the same time supporting a system where the votes of some people in one part of the country count for up to four times the votes of others. Long ago I tabled my private senator’s bill before the chamber which was based on the recommendations of the 1995 WA Commission on government report and refers to the one vote, one value principle.

We think that one vote, one value should be introduced in WA. Hopefully, those holding the balance of power will not only ensure a good one vote, one value outcome but also ensure real electoral reform in WA on issues like funding disclosure and political governance. I do hope that those holding the balance of power heed the words I have spoken tonight.

Communications: Media Standards

Senator SANTORO (Queensland) (8.40 p.m.)—At the additional estimates hearings in February, the ABC and SBS again demonstrated that, however accountable they might be on paper, our public broadcasters prefer to be as unaccountable as possible. There is almost always a reason not to answer a question that, for whatever reasons, their management would rather not answer.

The embarrassment of the SBS decision to broadcast Hanoi propaganda in its World-Watch news program—something it briefly did in 2003 before the board stepped in and stopped it—is for me and for many in the Vietnamese community here in Australia an unfinished item of business. At the estimates hearings the Managing Director of SBS, Mr Nigel Milan, threw in several red herrings on that score. At least they were the appropriate colour. Mr Milan was trying to avoid conceding that the material SBS had broadcast was propaganda. The closest he got was to suggest that a lot of unedited rebroadcast material from overseas sources might be viewed as propaganda. There is also the issue—which Mr Milan left hanging in the air in his correspondence with me before the estimates and at the estimates hearing—of why it is acceptable to him for a very senior SBS executive to get himself locked up in a cage on Bondi Beach as a political publicity stunt and not tell him about it until afterwards. And there is the issue—and it is becoming a perennial issue—of when a terrorist is not a terrorist.

Let me say that both SBS and the ABC do a great job as public broadcasters. So I take no pleasure in having, yet again, to remark that our public broadcasters are astonishingly energetic in avoiding acceptance of any suggestion that they might have got things wrong. In the Australian newspaper on 4 March, I contributed an article that took a critical view of the ABC in relation to three topical issues that I believe demonstrate that it is still in need of correction. They are: the cavalier approach the ABC took to complaints upheld against the Four Corners documentary ‘Lords of the Forests’; the shrieks of outrage from the metropolitan elite and the ABC’s own staff-appointed director when newspaper columnist Janet Albrechtsen was appointed to the board; and the ABC’s extraordinary public response to the Australian Broadcasting Authority’s finding against its news and current objectivity in relation to the Iraq war coverage.

At Senate estimates hearings last month, the issue of why the ABC had hidden the
criticism levelled by the ABA against the 2004 anti-timber industry documentary **Lords of the Forests** got another airing. I asked questions that go right to heart of accountability. Independent assessment had shown the program presented subjective views as objective analysis. But apart from a media statement put out by managing director Russell Balding— and the ‘correction’ on the **Four Corners** web site of three comparatively minor errors of fact— no public atonement took place.

When Janet Albrechtsen was appointed to the ABC board last month, there were howls of outrage and an instant campaign of denigration against her. The fact that she writes opinionated columns for the **Australian** and is a right-wing commentator apparently means that she is part of some News Corporation plot to take over the world. But, as I wrote in the **Australian**, most people probably see her columns as evidence instead that a plurality of views exists that is very far from fully or fairly represented on ‘our’ ABC. The ABC’s staff-elected director, Ramona Koval, described Ms Albrechtsen’s appointment as inappropriate. A former ABC staff-elected director, Quentin Dempster, who is still an employee of ABC news and current affairs, also spoke publicly against Ms Albrechtsen’s appointment. Mr Dempster wrote to me last week and kindly sent me a copy of his book, **Death Struggle**, which was published in 2000, in which he presents a case for an end to all so-called political appointments. I thank him for reminding me of his views, but in my view his solution does nothing to better achieve the delicate balance between the necessary conditions that attach to public funding and the desirable level of editorial independence.

In this context, it is interesting that the broadcasting writer Errol Simper, who also wrote in the **Australian** the week before last—I think this is worth reading into the record— wrote of Ms Albrechtsen:

Yet, all but unnoticed by many critics, Albrechtsen passed— perhaps with honours— her first post-appointment public broadcasting test on Monday evening.

Interviewed on ABC Radio’s Sunday Profile series by a sharp, watchful Monica Attard, Albrechtsen was taken to— arguably— the most important question for her to answer.

Attard: “In an ideal world, would there still be an ABC?”

Albrechtsen: “I think so. Absolutely. I think there’s a really important role for the ABC to play.”

Attard: “And what is that?”

Albrechtsen: “Well, I think it’s as the charter says. It’s to present programs that add to a sense of national identity, and entertain us and reflect the cultural diversity of the Australian community. I think that’s absolutely vital and I don’t think we can leave that up to commercial stations to do.”

Albrechtsen thus puts to the sword one of the most serious community criticisms of her appointment: perceptions that she does not fundamentally believe in public broadcasting. That is a reality check that critics of her appointment should accept immediately. I know of no-one on my side of the chamber who would ever suggest that left-wing bias should be replaced with right-wing bias. The whole argument is about eliminating bias and replacing it with balance. In that context, the ABC’s action on 2 March in publicly arguing with the umpire over the ABA’s findings of bias against the **AM** program over some of its 2003 Iraq war reporting is extraordinary. Its heroic claim that it was only a little bit guilty, if that, also demands forensic examination.

In consequence, Ms Albrechtsen’s view of the importance and urgency of correcting balance in ABC news and current affairs coverage of international politics is consid-
erected, objective and correct. In the latest case, we have again been subjected to lecturing—one might almost say hectoring—from the lofty summits of semantics about what really constitutes bias. As we know—and I made reference to this in my speech on the Broadcasting Services Amendment (Anti-Siphoning) Bill 2004 last week—the ABC’s former director of news, Max Uechtritz, told a Barcelona conference in 2003 that the military were ‘lying bastards’. Two years later, the ABC itself is essentially presenting the same argument in regard to its reportage of the Iraq war. It seems that as far as the Ulitmo push is concerned, the umpire is wrong and must be lectured publicly about why it is all right to equate the presentation of US military analysis of a developing combat situation in Iraq with the unbelievable polemics of the Iraqi regime that was in the process of being removed.

The issue is not so much whether the ABC or the ABA is right; it is that the ABC remains hostage of a fundamentally leftist elite that is fighting a culture war and will not admit to the possibility that it might have erred. At the Senate estimates hearings last month, I publicly applauded the ABC for its coverage of the Indian Ocean tsunami disaster. I thought it did that job brilliantly and with great sensitivity. It certainly deserved a public accolade at the estimates hearing, and I was happy to ensure that it got it. I am equally happy to repeat that praise tonight.

On that front, I am pleased to welcome ABC2, the new digital channel. ABC2 is a great development that will deliver significant benefits to ABC audiences, especially those in regional Australia. The focus on programming for children and young teens, for regional and rural viewers through Landline, as well as all eight capital city editions of Stateline and the new Australia Wide news program in prime time, demonstrates the ABC’s commitment to producing informative and entertaining TV. The ABC deserves congratulations for its initiative in moving so strongly into this new area of broadcasting technology. Development of the digital service shows that the ABC is maintaining its record of innovation as a public broadcaster, especially with the broadband content to be provided on ABC2. It also shows that, when it puts its mind to it, the ABC can find the money within its existing budget to develop new product to meet the demands of its market.

That is all to the good: I give credit where credit is due. Yet, if our public broadcasters are to be praised for work judged to be good, they must accept the concept of criticism if work is judged not to be too good. At the estimates committee hearings just concluded, both the ABC and SBS took a number of my questions on notice. It is a pity that critics of the public broadcasters so often find, when they seek accountability or are looking for redress, that they run into blank walls and dead ends. It is a shame that when there is an issue that must eventually be answered the answer so often comes in the form of a ream of obscurantist prose straight off the table at some lawyers’ picnic.

It is the same with the matter of the ABC’s decision—itsself perfectly fine and I would say a matter of good governance—to go to tender for captioning. What is wrong with that process is that the captioning concern it had worked with for years—a not-for-profit organisation with which it had enjoyed a deep and indeed almost symbiotic relationship since 1982—appears to have some legitimate complaints about process. It feels it was basically excluded and that the attempts it had made to meet the ABC’s reasonable desire to cut costs were ignored.

These are legitimate issues for scrutiny given that the ABC exists on public money. But, as usual, there has been no disclosure,
or precious little. There are several matters outstanding in this and other areas of ABC and SBS scrutiny. I look forward to the budget round of estimate hearings with keen anticipation.

**Adelaide Symphony Orchestra**

Senator WONG (South Australia) (8.49 p.m.)—I rise tonight in support of the Adelaide Symphony Orchestra, an orchestra of which we in South Australia are very proud. I rise in support of that orchestra because of the recommendations contained within the orchestras review report, which was chaired by James Strong and released on Monday, 14 March. I want to respond to the recommendations contained in that report as they relate to our Adelaide Symphony Orchestra. Minister Kemp’s press release stated:

The purpose of the review was to examine a range of operational, marketplace, financial and governance issues which are confronting Australia’s symphony and pit orchestras. The report makes a number of important recommendations to improve the sustainability of these orchestras.

It is interesting to note that the Minister for the Arts and Sport appears to be saying that some reduction in the size of the orchestras is an improvement in their sustainability. There are some recommendations that will deliver benefits to the orchestras, such as the scrapping of the efficiency dividend, which is purely a device for extracting money from a sector which needs increased, not decreased, support.

I make it quite clear that I am opposed to the staffing reductions at the Adelaide Symphony Orchestra and also at the Tasmanian Symphony Orchestra, about which Senator O’Brien has spoken tonight, and the Queensland Orchestra. Those cuts, totalling nearly 40 professional musicians, will severely compromise the capacity of these orchestras to deliver the world-class performances for which they have become renowned. It is difficult to see how a reduction of artistic standards will improve the sustainability of our orchestras. In particular, the report recommends that the number of permanent musicians in the ASO be reduced from 74 to 56, a reduction of some 25 per cent. Such a reduction will severely compromise the artistic ability of the ASO and limit its capacity to perform the level of repertoire that defines its performance standards.

One of the crowning achievements of the ASO’s history has been its performance of Wagner’s epic opera the *Ring Cycle*. Firstly in 1998 and most recently in November and December 2004, the Adelaide Symphony Orchestra performed at a standard which saw it become the recipient of the highest international acclaim. Such international recognition brings immeasurable benefit to my state of South Australia and ensures that the high artistic regard in which Adelaide and South Australia are held is maintained. We are, after all, the festival state, and we are very proud of that title. The report itself recognises the fact that many of the ASO’s recent performances have attracted critical acclaim.

The Adelaide symphony’s ability to perform a musical masterpiece of such difficulty and complexity as the *Ring Cycle* and to achieve such high praise is the result of the artistic strength of a permanent ensemble the size of the current orchestra. This strength of ensemble allows the ASO to deliver at the highest artistic levels. To reduce the size of the ASO, as is proposed in the report, would also severely compromise the future of opera and ballet in South Australia, as the ASO is also engaged by State Opera South Australia and the Australian Ballet for their performances in Adelaide.

Also compromised would be the future of many young musicians in South Australia. Many of the current members of the Adelaide Symphony Orchestra teach at the Elder...
School of Music at the University of Adelaide—the university where I studied—and in other forums. The mentoring provided to Adelaide students by these musicians is invaluable. By reducing the strength of the orchestra, the calibre of teaching staff would also be reduced. The future of many of these young musicians would also be placed in jeopardy, with many having to look interstate if they wish to pursue a career in music. Indeed, many will probably be discouraged from pursuing a career in the first place in the knowledge that their future prospects in Adelaide would be limited, leading to a long-term decline in South Australia’s artistic outlook. And, as I said earlier, we are very proud of our title and our reputation as the festival state and of the strong arts tradition which our state enjoys—of course, that was begun in a great sense by former Labor premier Don Dunstan.

A reduction in the size of the orchestra could also compromise the availability of repertoire for other orchestras around the country. At present, a touring conductor or soloist may perform the same work with a number of orchestras around the country. If the capacity of orchestras like the Adelaide Symphony Orchestra to perform a certain level of repertoire is reduced, this could have a multiplying effect on the other orchestras if soloists and conductors decide it is no longer viable to tour. In any event, the loss of international musicians to South Australian audiences would be significant.

These are some of the reasons why the report has received such a negative response in South Australia. They are also reasons why I, like other senators and members in this and the other place, have received so much correspondence and so many telephone calls and other messages from South Australian residents protesting any possible reduction in the size of the orchestra.

I note that, of the $44.3 million total pool of Commonwealth funding to orchestras, the Adelaide Symphony Orchestra received $4.5 million for 2004. I also make the point that the report’s recommendations have been made despite some strong figures and potential for the ASO. For example, on page 30 of the report it can be seen that the ASO’s income from subscription concerts nearly doubled in the space of two years, from $844,000 in 2001 to more than $1.6 million in 2003.

Attendance by subscription ticket holders grew from 17,400 in 2001 to 22,700 in 2003, a rate of growth incomparable with that of any other orchestra. Indeed, subscription audiences declined for all other orchestras with the exception of the Tasmanian Symphony Orchestra. Single ticket attendances for the ASO grew from 9,700 to 16,700, which is also highly significant. Perhaps even more notably, the ASO also recorded a 318 per cent increase in income from corporate sponsorship and donations between 1998 and 2003. In 2003, such donations represented 11.4 per cent of its total revenue. By watering down the ASO, as is proposed in the report, these revenues would surely also decrease as a smaller orchestra could not match the calibre of a larger one and thus would have diminished appeal.

I call on the Howard government and Minister Kemp to reject the recommendations of the report that call for the slashing of musicians from the Adelaide Symphony Orchestra, the TSO and the Queensland Orchestra. I note that in question time today Senator Kemp attempted to allay some of the fears which have been quite justifiably raised by the public and, of course, by some of his backbench, who understand the regard in which these orchestras are held in our home communities. For the record, I note that the minister has not ruled out accepting or implementing the recommendations of the re-
port, despite the opportunity he had to do that today in answering a question from a government backbencher.

I will finish on this note: the Adelaide Symphony Orchestra has a long and justifiably proud history. Indeed, it is a history that is close to home in terms of my office. A member of my staff is the grandson of the legendary Professor Henry Krips, who was the resident conductor of the ASO from 1949 to 1972. During his 23-year association with the orchestra, Professor Krips achieved the highest level of musical performance and established the Adelaide Symphony Orchestra’s current reputation as an orchestra of world standard. The Adelaide Symphony Orchestra must not become the victim of a lack of support by the Howard government for high quality symphony orchestras in Australia.

Western Australia: Water Management

Senator GREIG (Western Australia) (8.58 p.m.)—I rise to talk about an issue which greatly affects every Western Australian, particularly urban Western Australians, and that is water—or, more to the point, the lack of it. I realise that Western Australia is not alone in its lack of an abundant fresh water supply, but following the recent state election the issue of water and of topping up our water reserves has been rightfully thrust to the forefront of public debate and political manoeuvrings.

No doubt everyone has now heard about the canal proposal put forward by the immediate past state opposition leader, Colin Barnett, and supported by the federal Minister for the Environment and Heritage, Senator Ian Campbell, which would have seen water sent from the Kimberley to the Perth metropolitan region via a synthetic canal with a membrane cover to stop evaporation. It was to have been fenced on both sides to stop animals—both wildlife and human beings—falling into the waterway and was to have had surveillance cameras placed right along its 3,700 kilometre strip to monitor pilfering and/or damage. Critics raised the likelihood that the water would be nothing more than warm green slime by the time it reached the end of its journey, while supporters hailed it as a very likely solution to a problem which is only going to increase as the years go by. Despite the many pros and cons, no doubt everyone has also heard of what happened to that idea. The opposition coalition in Western Australia was relegated to opposition for another term, and the canal has been blamed for the opposition’s poor result.

That said, the issue of water—the most efficient use of our existing water resources and a fresh supply for Western Australian consumption—is still to be properly and adequately addressed. The state Labor government has undertaken to build a desalination plant, powered by renewable energy, to treat sea water from the Cockburn Sound, south of Perth. This initiative will add to the dams and reservoirs upon which we in Western Australia currently rely. I wish them well with this project, despite my concerns about the amount of energy required to power such a plant and the criticism it has received from experts that it will still not adequately address our urgent needs for more fresh, clean water both now and into the future.

Western Australia also relies heavily on our underground water reserves. These reserves, particularly those near and in the metropolitan area, are being closely monitored by hydrologists and other water resource experts, many of whom are concerned that these reserves are also under serious threat from overuse and, as a result, of becoming extremely salty. Western Australian hydrologist Dr David Reynolds, from the Centre for Water Research at the University of Western Australia, was quoted in the West
Australian newspaper on 4 March this year as saying:

... it was extraordinary how little is known about the interconnection of Perth Aquifers, given that Perth city is the most ground-water-dependent city in Australia.”

In Perth today, there are some 140,000 domestic garden bores, unlicensed and un-metered. This has in many cases resulted in the widespread misuse of water, allowing bore owners to completely sidestep the water restrictions imposed on households which depend on scheme water. Conservationists are concerned that the increased use of bore water by residents is turning bores salty. Mr Reynolds said:

... while he thought it unlikely that Perth’s deepest aquifer, the Yarragadee, from which most drinking water is drawn, would have the same salt problem as that affecting bores drawing from the uppermost Superficial aquifer, he warned that the salt problem would increase.

That was quoted in the West Australian of 2 March this year.

The Western Australian President of the Institute of Landscape Architects, Mr Stuart Pullyblank, is also on record as saying:

State and local governments need to tighten restrictions on bore water use, use recycled effluent for irrigation instead of bore water and lead by example in replacing lawns with native species.

Mr Pullyblank has joined the Western Australian Conservation Council in calling for meters to be installed on all bores at owners’ own cost and for the same restrictions to be imposed on bore water use as on scheme water. I wholeheartedly agree with these recommendations. Unfortunately, these initiatives have been rejected by the current state environment minister, Judy Edwards, who has said that she would not support payment for domestic bore water because the government wants to encourage people to use alternatives to scheme water. I would argue that this is totally missing the point of water conservation. It matters not whether someone is wasting bore water or scheme water—at the end of the day, it is still a waste of water, and a waste we simply cannot afford.

Driving around the suburbs of Perth on any given day, it is easy to see this blatant waste of bore water. The telltale brown stain on fences and walls shows clearly where the bores are and it is usually these households which have reticulation on day after day, regardless of the weather, regardless of the time of day and regardless of whether the sprinklers are watering the gardens, the lawns or the roadways. These householders seem content in the knowledge that they are not drawing on scheme water—and therefore not being billed for it either—but using their own supply. This is wrong.

Western Australia is experiencing an unprecedented draw on bore water, which is reportedly resulting in very high salt levels. According to media reports, the City of Nedlands last year closed its Swanbourne bore after water from it measured at 4,000 parts per million. That is as salty as sea water. Cottesloe and Mosman Park councils have also closed several bores in recent years after they became too salty. Trinity College has had to use scheme water to flush out salt in turf after bore water browned the turf. Water from three City of Belmont bores in the newly developed Ascot Waters Estate was measured at 14,000 parts per million in May 2003, rendering it useless because it was more than three times as salty as sea water. I find it absolutely extraordinary that the state government is still offering a $300 rebate for domestic garden bores. This no doubt has had a bearing on the 9,600 garden bores that have been installed in the metropolitan area since February 2003 and that are now contributing to the problem. On 2 March this year it was reported that the Water Corporation had granted the Western Australian Turf Club a waiver to use up to 216,000 litres of
fresh water per day on its race track to dilute its salty bore water. This is equal to the consumption of 170 households.

The Department of Environment in Western Australia seems to be moving incredibly slowly on this issue but has at least admitted to the media that the numerous incidences of bore water being found to be too salty indicates a need for management action to allow the aquifer to recover. Mr Ed Hauck, the Department of Environment’s hydrology and water resources manager, is quoted as saying that the saline water is seeping into the aquifer tapped by bores from the Swan River, the adjoining Leederville aquifer, or both. He said this was due to poor rainfall and possibly excessive bore water use, which prevents the aquifer being replenished from its usual sources as fast as it is being taken out. Surely these warnings need to be heeded. Surely the state government should be moving to ensure that measures are taken to address these issues before they get any worse.

We Democrats encourage the Western Australian government to be part of the National Water Initiative in order to benefit from the experiences and expertise of other states on the important issue of water. The federal government has allocated $2 billion towards better use of water resources in Australia, and I encourage Western Australia to make the most of the opportunities that this funding might provide.

Current management regimes to reduce water use have been put in place in the Great Artesian Basin, which lies under areas of Queensland, the Northern Territory, South Australia and New South Wales. A joint federal and state government program has provided incentives to land-holders to cap free-flowing bores and pipe open bore drains. The Chair of the Great Artesian Basin Coordinating Committee, Mr Geoff Austin, says this has led to environmental benefits and a reduction of water extracted by 94,000 megalitres a year. Western Australia’s population is set to increase by some 800,000 by the year 2030 and climate models show a drier and warmer south-west region in this period. We need to be more sensible with the water we currently have and more productive in our methods of recycling and creating more of the resource. Effluent and stormwater recycling for irrigation is already undertaken in some country areas, but much more must be done to see us into the future.

Foreign Affairs: Zimbabwe

Senator MOORE (Queensland) (9.08 p.m.)—First, I would like to acknowledge Senator John Tierney and support the comments that were made by many people in this Senate to thank him and to wish him and his family well in the next part of his career. However, tonight I would again like to talk a little about Zimbabwe, now that we are in the last couple of weeks leading up to Zimbabwe’s 31 March election. It is not an election as we know it in this country but one that creates special challenges and real danger for those people from all sides—but, in particular, from the opposition—who are brave enough to be candidates. One of those candidates in the election, who is running for the second time, is a friend of mine. Her name is Sekai Holland.

Sekai is a truly amazing woman with whom I have had the privilege to share many hours of conversation. Every time you talk with Sekai, I believe you go away a better person. She is again running for a remote regional seat in Zimbabwe called—and I will get this pronunciation wrong, but I will give it a go—Mberengwa East, which is a country seat several hours outside Harare. People face particular challenges in that electorate, not only because many people are fearful about taking up their right to vote but also because they have been suffering great short-
ages of food over the last few years and many people are at subsistence level. This used to be one of the richest countries in the African basin, and now many of the citizens are starving because there is not adequate food. This particular issue has been used by the government of the day to try and buy votes. It is a particularly strong form of advertising if you can actually guarantee food to voters.

Sekai has made the decision to run again because she is committed to the true principles of democracy. She has always been a political activist. She studied in Australia and also in the United States and Colombia. She has a range of academic qualifications. But underlying all that effort is a true commitment to making people strong—in particular women and families. She is committed to ensuring that the future of Zimbabwe is protected so families in that country can look ahead with some real confidence and see that there will be a strong democratic government and that all people, black and white, will live together effectively and be able to engage in democratic discussions—not always agreeing but at least having a parliament that truly reflects the community and can make effective decisions about key issues such as education, jobs and landownership.

Those are issues that her party, the MDC, have had as their platform since they formed, and Sekai was one of the founding members of that opposition. I hope they will be the government, but we are not particularly hopeful. In the last round of major elections in the early 2000s there was great hope. There was great international coverage of what was going on. There was a sense that people would be able to have a fair vote and that their vote would reflect the decision of the electorate. However, that did not happen, and the world knows that. We know that there were international observers in Zimbabwe at the time, and their reports indicated that it was not a fair and open election. There were platitudinous statements made by the government of the day which covered up the overt violence and intimidation, which was the underlying factor in the way the election was conducted.

Leading into 2004, there is in the population almost a resignation that it is going to happen again. It is not that the violence will not be there. It is actually a little bit of a concern when it is not, because it is so entrenched in the culture that the expectation is that there will be violence. I talked to someone who was there last week, and there was almost a sense of relief that, while there are bashings, while people have been intimidated and while people who are not supporting the reigning party of the day, the ZANU-PF, are finding it very difficult to get their names on the roll, at this stage there have not been any mass murders. That was actually seen as an advance compared to what happened last time. It is almost impossible for anyone sitting in parliament here to understand the form that the parliamentary process takes in that country. It is very frustrating because there was such hope.

Sekai is continuing to campaign. One of the biggest issues for her is just getting around her electorate. She sent us an email recently describing a trip that she made to visit the people across her regional electorate. Three vehicles broke down before she even left the major city. The people are poor. She said that she cannot get support and physical help from other people in the community because the poverty is so entrenched. One of the key issues is the availability of petrol. We take it for granted here that when you are running a campaign you can have access to vehicles and can get around. In their area that is an impossibility. The difference between those in power—the haves—and those who are in opposition is very great, because the real challenge in encouraging the
people to take part and ensuring that they have the chance to be part of the system is overcoming the apathy and fear which is entrenched due to years of living in an autocratic society.

When Sekai is involved in her campaign, it is not just an individual process. Her campaign includes her whole family and her supporters. The overwhelming sense for me is their joy. You cannot speak with these people or talk with them about what is going on without being affected by the sheer enthusiasm and joy they have for being part of any kind of democratic process, even one so flawed. They believe that the danger is worth the risk. They want to be part of the democratic process. They are already queuing in an attempt to get on the electoral roll, even knowing that the roll will be flawed, because they want to be part of the process.

Senator McGauran—Where are you talking about? Iraq?

Senator MOORE—I am talking about Zimbabwe, Senator McGauran. I know this is an area you have heard about and previously shown an interest in. It is important that people in this place can share in these experiences. They are not frustrated by the problems of the electoral process; they want to get involved and be there.

A few weeks ago, I spoke about the international campaign that is being run to free Roy Bennett. He was an elected representative in the Zimbabwean parliament and has now been sentenced to prison for over 12 months over something that is wrong. At that time we had great hopes that Roy, despite being in prison, would still be able to run for his seat in parliament. Finally, after several attempts through the court, it was decided that Roy was not eligible to run again for parliament. So his partner, Heather, who has always been part of the team, has put herself forward—I think reluctantly—to be a candidate for the seat Roy held. She says that she is putting herself forward as a candidate only to ensure that these successes can occur and because, if you do not put yourself forward, you are forgetting the years of suffering that people in the area have endured.

One of the really terrifying aspects of this whole discussion is that we do not know what is going on in Zimbabwe. It is almost impossible to get information. There is very little media coverage. Looking through the major papers in Australia, you will not find information about the Zimbabwean election—even though we all know, as members of this place, many people of Zimbabwean background and descent live in Australia and want to know what is going on there. But you have to find snippets of information in the international press.

The press in Zimbabwe is severely limited. The MDC, the major opposition party, cannot get media activity or coverage of its processes. It is unable to run campaign advertisements. Not only is there overt violence, thuggery and threats; there is also the inability to have a campaign. The MDC cannot get radio time—the most effective campaign tool in a country like Zimbabwe—nor can it get into the newspapers. Independent media has been closed down. All this is on record. Both the Minister for Foreign Affairs, Alexander Downer, and the shadow foreign minister, Kevin Rudd, have made public statements about the lack of openness connected with this election and said that the election is based on a false premise. Zimbabwe is going through an electoral process, but it is neither fair nor open.

I hope that people will try and find out what is going on in Zimbabwe, because its people deserve better; they are working to achieve greatness. I am humbled by the efforts of people like Sekai Holland. If we could have only some semblance of her pas-
sion and her commitment, our parliament would be enhanced. I am hoping, almost against hope, that the parliament of Zimbabwe will be enhanced by her election at the end of this month.

Orchestras Review Report

Senator BRANDIS (Queensland) (9.17 p.m.)—Yesterday the government received the report of an inquiry announced on 28 May last year by the Minister for the Arts and Sport, Senator Kemp, into the funding and operation of Australia’s orchestras. The report, A new era—report of the orchestras review 2005, was prepared by a committee under the chairmanship of Sydney businessman Mr James Strong. By its terms of reference, the principal task of the Strong inquiry was to ‘make recommendations on ways in which the orchestras and governments can work together to ensure the long term vibrancy and sustainability of Australia’s orchestra sector’. The review is not an assessment of artistic standards.

Australia presently has eight orchestras: six symphony orchestras, one in each state, together with two pit orchestras—the Australian Opera and Ballet Orchestra, based in Sydney, and Orchestra Victoria, based in Melbourne, whose function is to support the opera and ballet companies based in those states. The symphony orchestras were originally operated by the ABC, however in recent years they have become largely autonomous. The current shape of Australia’s orchestras is the result of some consolidation in the sector as a result of mergers—notably, the merger in 2000 of the Queensland Symphony Orchestra and the Queensland Philharmonic Orchestra into the new Queensland Orchestra.

The Strong report makes some 20 recommendations for the future direction of Australia’s orchestras—most of which, in my opinion, are excellent. They include recommendations concerning the introduction of proper corporate governance standards, industrial relations reform and a proposal that the Commonwealth should, as a one-off, assume and write off the accumulated debts of a number of the orchestras. However, there is one recommendation which I cannot support and which has already raised much justifiable concern among my parliamentary colleagues and in the broader community. That is the recommendation that the symphony orchestras in three states—South Australia, Tasmania and my own state of Queensland—should be substantially reduced in size. In the case of Tasmania, it would mean, in effect, the conversion of that orchestra into a large chamber ensemble. In the other states, it would mean the substantial shrinking of the ensemble size—in the case of Queensland, from a quadruple-wind ensemble to a triple-wind ensemble. This would make it impossible for the orchestras to perform, without augmentation from musicians who do not form part of their establishment, many of the great orchestral works such as Beethoven’s Ninth Symphony or Mahler’s Fifth.

The justification for the recommended reduction in the size of these orchestras is ‘sustainability’. Yet the sad fact is that, if sustainability means the capacity to operate on an ordinary commercial basis, there is no orchestra in Australia which is sustainable. As the figures tabulated in the Strong report show, every Australian orchestra is heavily dependant upon public funding; in fact, there is no orchestra in Australia which is sustainable. Even the most commercially successful orchestra in the country, the Sydney Symphony Orchestra, relies primarily on government subsidies—to the extent of 45.6 per cent in 2003. In 2003 the Commonwealth contributed $43,973,000 of the total government funding of orchestras of $57,389,000, which represented 61.2 per cent of all the...
revenue of those orchestras. The extent of reliance upon government funding ranged from 45.6 per cent in the case of the SSO to 80.8 per cent for the Tasmanian Symphony Orchestra.

To ask whether an orchestra is sustainable and then to conclude that, if it is not, it should be cut back is to ask the wrong question. Since no Australian orchestra is sustainable in the sense of being commercially self-sufficient or even close to being so, the real issue, given that reality, is whether the government nevertheless accepts that orchestras are a sufficiently important part of the infrastructure of our community and of the social capital of our nation that they should be supported. It is my very firm belief that the answer to that question is yes. To cut back the size of orchestras in the smaller states not merely reveals a disturbingly Sydney-centric prejudice but also will do lasting harm to Australia’s social and cultural heritage. As the visiting conductor of the Tasmanian Symphony Orchestra, Matthias Bamert, said last weekend, the question is not the cost of orchestras but their value.

Let me pay my tribute to the Queensland Orchestra. I have been an admittedly occasional patron of the orchestra and its predecessors for more than 20 years. Indeed, I can boast of a very old family connection. My great aunt, the late Mrs Evelyn Jones, a violinist of considerable distinction, was, as Miss Halligan, the leader of the Queensland Orchestra’s ultimate predecessor in Brisbane shortly before the First World War. Several other members of my family have been deeply involved in the musical life of Brisbane over the years as participants, stalwart patrons and, most recently, chroniclers, with the publication last year by my cousin Joan Priest of her biography of Queensland’s three most famous divas: Margreta Elkins, Marilyn Richardson and Lisa Gasteen.

The Saturday before last I had the pleasure of representing Senator Kemp at the Queensland Orchestra’s first concert for 2005. Anyone who heard their stunning performance of the great Mahler Fifth Symphony under the baton of their former chief conductor and now principal guest conductor, Muhai Tan, would have been left in no doubt that they were witnessing the work of a superb orchestra. After the concert I spoke with Muhai Tan, now one of the leading conductors on the European circuit. He told me with passion and deep conviction that he considered the Queensland Orchestra to be one of the most exciting orchestras with which he had ever worked.

This is no parochial boast. No doubt, a patron of the Adelaide Symphony Orchestra could recount with justifiable pride that orchestra’s internationally acclaimed performance of the Ring Cycle last year, and others could speak the praises of other Australian orchestras. Artistic excellence in Australia does not just reside in Sydney and Melbourne, whether in music or any of the other performing arts, and no assessment of Australia’s rich musical achievement should ever lose sight of that fact.

This makes the treatment of the great Queensland Orchestra by the Strong report so disappointing. In particular, the Strong report either completely disregards or pays scant attention to three important considerations affecting the Queensland Orchestra’s financial performance and future sustainability. First, it takes as the baseline for its financial assessment the three years from 2001-03, in each of which the QO reported an operating deficit. Yet these were the years immediately following the merger of the Queensland Philharmonic Orchestra and the Queensland Symphony Orchestra. The merger of two long-established orchestras was always bound to be difficult, and I think it is now acknowledged that this merger was
perhaps even more difficult than expected. But what the Strong report does is take a new orchestra in its early and most difficult stage and use that as a baseline for future projections. It disregards the fact that, by 2004, after the initial postmerger period, it turned an operating deficit of $445,000 in 2003 into a modest surplus. Strong reports that ticket sales were flat in 2001-03. He disregards the fact that, in 2004, ticket sales increased by 6.9 per cent. In 2005, based upon subscription payments, they are projected to increase by another six per cent.

Second, there is little appreciation of the fact that the Queensland Orchestra is, as its name implies, an orchestra for all of the people of Queensland, not just for the musical public of Brisbane. It undertakes much more extensive touring responsibilities than any other state orchestra, reflecting the heavily regional character of the state. Those activities are invariably loss-making, but they fulfil a vital role in the culture of Queensland. Disappointingly, that activity is dismissed in a few words. Yet, as I pointed out earlier, if the sustainability of an orchestra is to be assessed purely from the perspective of a cost accountant, there would be no orchestras in Australia. Finally, the report takes absolutely no account of the fact that south-eastern Queensland, the orchestra’s principal market, is both the fastest-growing and fastest-changing part of Australia.

Nevertheless, there is reason for optimism. I welcome the indication in question time today by the minister, Senator Kemp, that the government is not disposed to agree to a reduction in the size of the Queensland, Tasmanian or Adelaide orchestras. I trust that that will be the government’s final position after it has considered the Strong report carefully. In closing, I want to record my appreciation to Senator Kemp, who has been very generous with his time in seeing me, Senator Mason, and the member for Moncrieff, Mr Ciobo, on several occasions in the last few months to discuss these issues and hear our representations on behalf of the great Queensland Orchestra.

Mr Gerry Adams

Senator McGAURAN (Victoria) (9.28 p.m.)—I rise to speak in the Senate this evening against any future visits to Australia by the Sinn Fein leader, Mr Gerry Adams. I do acknowledge that Mr Adams can now freely travel to this country and I do not suggest that that right be taken away. But it is worth noting that it was once not the case. Mr Adams was barred from entry into this country, and for very good reason. He was an associate of terrorists, which made him one by association. However, given that he is entitled to enter Australia, what should happen is that he should not be made welcome either officially or by good and right-minded people who seek peace and the settlement of the Northern Ireland question. I am prompted to say this after an article that appeared in the *Australian* today. It begins by saying:

Australia’s Irish community will push ahead with plans for a fundraising visit by Gerry Adams or another senior Sinn Fein figure, despite a move by the US to ban fundraising by the IRA’s political arm.

Irish community leaders have warned the Howard Government of a political backlash if it followed the US.

The article goes on to say that the US:

... has lost patience with Sinn Fein over the alleged involvement of the IRA in the $63 million robbery at an Australian-owned bank and the brutal murder of Catholic man Robert McCartney outside a Belfast public.

The article says:

Australian fundraising activities are centred on regular visits from senior Sinn Fein figures. The major fundraising groups are the Sydney-based Australian Aid for Ireland, with branches in Queensland and South Australia, the Melbourne-
based Casement Group and the Perth-based Friends of Sinn Fein.

The article quotes Paddy Gorman, the spokesman for Australian Aid for Ireland, saying:

Any decision by Canberra to follow the US move would be strongly opposed by Australia’s large Irish community.

The article goes on to say:

“There is a long historical association between Ireland and Australia and support for Sinn Fein is part of that,” he said.

‘He’ being Paddy Gorman. Any decent Irishman would disassociate himself with the comments of Paddy Gorman that Australia’s long association with Ireland in any respect includes that of Sinn Fein. Mr Gorman may well hold those views himself, but I can inform the Senate that, contrary to Mr Gorman’s threat, the Irish community would not strongly oppose the freezing out of Mr Adams when or should he visit Australia.

Just like the growing public opinion in Ireland and the US, Sinn Fein and Mr Adams are truly on the nose. Any Celtic or Irish club member or president worth their salt will not entertain Mr Adams on their premises and would reject his visit—now more than ever, given that we have a far more heightened distaste for terrorism. The IRA and Sinn Fein’s association with the IRA should be utterly rejected, as it is being rejected in Ireland itself. The hope of any final settlement of the Irish question is not with Mr Adams. The truth is that he and his IRA association have held up peace for at least the last three decades.

Mr Gorman embarrasses the Irish community when he makes such statements and such threats and purports to speak as a leader of the Irish community. But, worse than that, he slaps in the face the family of murdered Robert McCartney. As we all know, Mr Robert McCartney, a 33-year-old father of two, was beaten and stabbed to death outside a busy Belfast bar on 30 January by a group of known IRA members. That incident sparked the family, particularly Robert McCartney’s sisters, to move a nation to condemn the once intimidating IRA. The Robert McCartney incident followed the bank heist undertaken by the IRA—regardless of how much they seek to reject that robbery. I welcome—as we all should welcome—President Bush’s and Prime Minister Blair’s rejection of Sinn Fein’s story and their refusal to deal with them at all.

The truth is that the provisional IRA long ago wandered from the principles of their origins. For me, that at least dates back to the 1980s and the time of the Bobby Sands incident. They are mindless thugs, involved in murder, assassination and terror. They bomb the innocent and kill and intimidate their very own civilian public—and that includes priests, nuns, women and children. They run arms, they rob banks, they take people’s money, they train other terrorists and there are drug cartels in South America—and I believe they are most likely tied up in the drug trade themselves.

I say this as a person of pure Irish origin. I, like all of us, seek resolution to the Irish troubles, and I do not turn a blind eye to the Unionist Party’s activities—the orange version of the green IRA—or, for that matter, some of the appalling and cruel history of the British occupation; for example, the potato famine, if you want to go back that far. However, the IRA have no moral ground to stand on, and they and anyone who supports the IRA must be treated as absolute pariahs—Mr Adams included. Mr Adams is a man of cunning words and blatant lies and he should be condemned for his links with terror and should be rejected by the Irish community in Australia.
The jig is up for the IRA. We have laws in this country against terrorism, and we ought to apply them to the IRA. They are no better than any other group on the proscribed list we have in this country of terrorist organisations, and we ought to seriously consider putting the IRA on that list. That would make fundraising activities held in this country for Sinn Fein—an organisation which ought to be outlawed because of their association with the terrorist group, the IRA—illegal.

**Anzac Cove**

Senator MARK BISHOP (Western Australia) (9.36 p.m.)—Today, the Minister for Justice and Customs, Senator Ellison, representing the Minister for Veterans’ Affairs, advised that the government refused to table a copy of a letter. That letter was written last August by the former Minister for Veterans’ Affairs, Mrs Vale, to the government of Turkey. According to the Minister for Foreign Affairs, the letter requested that roadworks be undertaken near the Anzac commemorative site at Gallipoli.

There are two reasons that it is such a shame that this government refused to table the letter as requested. First, there is considerable concern that the public facilities at Gallipoli will again be inadequate this upcoming Anzac Day. Put simply, the organisation and planning have been left too late, with a risk that the work will not be concluded in time. This of course has the flavour of the London War Memorial, which was late by six months with a $6 million overrun.

Second, there is considerable concern that damage is being done to this important place and that nothing is being done to protect it. This includes not just the risk posed to the remains of Australian war dead at Gallipoli; it includes the whole site, which is now subject to so much pressure. Putting these together, it would seem that the project could develop into a total catastrophe on 25 April. I would imagine there is disquiet in Turkey too for the same reasons.

It is well known that for a number of years the facilities at Gallipoli have been inadequate. Anzac Cove and the adjoining beaches are quite remote. The peninsula is separated from the mainland facilities and to get there it takes several hours by road. So access is difficult, and each year we have seen chaos in traffic and transport arrangements. This year, for example, it is anticipated that as many as 600 tour coaches will be ferrying attendees to the ceremonial site at North Beach. Planning is anticipating in excess of 20,000 people. Last year, with reduced attendances, many people had to walk the last five kilometres. This year, with lessened security fears, it may be substantially more. For the aged and infirm, especially veterans, this is nigh on impossible.

But this is not a debate about the need for a better road; it is about the current government’s furtive behaviour. When the story first broke about bones being uncovered, the government’s response was evasive. They were happy for the Turkish government to cop the flak. The outrage generated by the media about the desecration of Gallipoli escaped the current government. But we all knew the government had been working for years with Turkey to improve the facilities there; hence the confession by the foreign minister that the former Minister for Veterans’ Affairs had written to the Turkish government requesting this work be done. Therefore, if anything is amiss at Gallipoli the Howard government is culpable; hence the importance of obtaining the letter—we need to know the extent of this culpability.

We need to be realistic about Gallipoli. It has become a major tourist attraction for people of many nations, including Turkey. It is just as important to Turks as it is to Australia and to other nations such as New Zealand.
and Great Britain. This is not just about Australia and our military heritage. It is not just about our one day of the year; it is about visitors all year round. And, like all things dear to us, it is in danger of being loved to death. But, at the same time, you cannot stop people going there; hence the need to take care and to put in all the safeguards necessary to protect it. That is why listing it as part of our national heritage is so important. That is why the Australian government, in promoting the work, also needs to guarantee that those safeguards are in place. Sadly, it seems they have not. Otherwise, how could this controversy arise?

The question now is: what has the Australian government, as the promoter of this work, done to ensure that all our interests are protected? On this side we accept that the management of Gallipoli is a matter for the sovereign government of Turkey. Criticism of the way in which roadworks have been managed could therefore cause great offence; hence, no doubt, the involvement of the Minister for Foreign Affairs, who has taken control from the Minister for Veterans’ Affairs. But we as Australians have a stake in what happens there.

Since we were all at school, no other historical matter has been instilled into our psyche more than this one. As a tragedy it may not compare with some others but it was the first. Therefore, it is greatly symbolic. Gallipoli has become an icon in our nation’s development. It is symbolic of our independence and of our engagement internationally on the side of peace and stability. It is a national cause for sorrow at the loss of life. That loss may have been comparatively small, but it did represent the first significant blood spilt on foreign shores. The controversy about the risk of uncovering Australian bones is therefore very real, as is the controversy over the Prime Minister’s failed promise to have the site listed on the National Heritage List.

All this smacks of a sense of neglect—Australian interests have not been attended to. What has been done, for example, to ensure that the status of Gallipoli as an original World War I battlefield is protected? What has been done to ensure that the increased tourist traffic will not further degrade the site? What environmental safeguards were insisted upon as part of the roadworks? Was Australia consulted on the design and the extent of the earthworks? More to the point, what safeguards were insisted upon for the protection of human remains uncovered? What contingency arrangements were put in place in the event of bones being revealed? What research was done by Australian authorities into the archaeology of the site and the chances that damage could be done? What research was done into the likelihood that remains of some of the 4,000 missing Australians would be disturbed? Or did we simply rely on the general assurances of the Commonwealth War Graves Commission, as usual?

To date, we have none of these answers. All we have are nice assurances from the foreign minister that all is well. Frankly, we are not convinced. What we have is more gung-ho management whereby the minister’s ambition for a new road will happen willy-nilly. Clearly, the government has not been sufficiently engaged; hence the motion today to obtain the letter sent by the former minister to the Turkish government. The letter might help explain what is going on at Gallipoli and the caveats as to how the work might be done so as to protect our interests. I have been offered a briefing by the government and I have accepted that offer, so I will not anticipate the outcome any further. Subject to that briefing, though, we should continue to assume culpability on the part of the government.
In conclusion I make the point that it is a tragedy that, again, this year Anzac Day at Gallipoli has been covered in controversy. Gallipoli is a special place for us all. Many Australians believe they have a mission in life to visit that place. It is wonderful that this motive is shared increasingly by our young, in particular. But the government, by its own hand, has created this controversy, and that can only be solved by providing the assurances that I have sought here this evening.

Abortion

Senator WEBBER (Western Australia) (9.45 p.m.)—I rise tonight in part because I was particularly moved by, and want to pay tribute to, the contributions made in this debate on International Women’s Day last week by Senators Crossin and Ferris, particularly the contribution made by Senator Ferris. I want to honour a promise that I made to myself and to her that I would add my voice to the debate about the provision of pregnancy termination services in Australia. My comments of course will reflect not only my personal view but the provision of services in my home state of Western Australia because, after all, this is an issue that is steeped in state law, not federal law. At the moment in Western Australia I think it would be safe to say that we have a fully debated, modern, fairly robust law that safeguards the rights of the medical profession and the women concerned, and that most women in Western Australia feel that they can get the help that they need, no matter what they decide to do about their pregnancy.

In discussing this issue I also want to canvass some of the myths that have developed within the debate—the first myth being the enormous growth in late-term terminations. In my home state of Western Australia—where thousands of healthy babies are born each year and only some hundreds of terminations are performed each year—there are only 90 terminations performed each year at the post 20-week mark, all of which are for sound medical reasons. One of the many concerns that women in Western Australia do have, though, about the provision of these services—and it is a concern that perhaps the federal government could do something about—is about their access to services when their local GP is perceived to be anti choice.

One of the problems I think we have in this debate is the way we stereotype people into being either pro choice or pro life. Like Senator Ferris, I do not see myself as being either. I see myself as being a person who is open to the exercise of individual conscience and wants to keep people safe, healthy and alive and to make sure that they have access to the services that they feel they need in their circumstances. Unfortunately, there are some general practitioners in Western Australia—probably 10 per cent—who refuse to give their female patients referrals to a so-called pro-choice provider. Whilst it may be a natural reaction for many to view this as respect for the GP’s personal views, I wonder whether the same will be said about those GPs who, say, refuse to condone blood transfusions and refuse to become involved in providing referrals to pro-transfusion GPs. This is something that we must address.

Other main issues that confront women who have to attend their GP when considering what to do about their pregnancy are of course the embarrassment and discomfort for a woman in an already difficult situation. She feels as though she is being judged by even canvassing the issue. This is a controversial issue to solve, but maybe general practitioners should be either required to give referrals—not just vague advice to find someone else—if it does not suit their particular beliefs or personal persuasions or, better still, make their views on this issue known before the woman makes the appointment with the

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GA. It is even worse in some cases, in that many GPs are still charging the women concerned for the consultation. Often those women are then too upset or embarrassed to make an issue of it. So they are charged by a GP who refuses to refer them on to the services that they require.

Another issue confronting women in Western Australia is access to the full range of choices and services when they are in this situation. Often this has more to do with women not wanting to see their local GP, particularly those in regional areas—where we all know it is pretty hard to keep a secret. But there is also the problem of accessing the service in regional and remote Western Australia, which usually involves a trip to Perth. Then there is the stigma that some people want to attach to the issue and even the consideration of the issue. That, in my view, actually causes some of the hardship, guilt and depression that these women suffer, and is often referred to by those who refer to themselves as ‘pro life’.

In Western Australia there is a misunderstanding of the law by some 20 per cent of GPs. They think that counselling means purely emotional and psychological counselling, rather than counselling about the risks attached to termination and/or continuing with the pregnancy. Finding a genuine counsellor who canvasses the full range of legal options for a woman can be difficult, with many groups advertising themselves as counsellors not prepared to do so.

These groups provide information about abortion, presenting it as an option but distorting facts about its dangers and its long-term effects. Their claims often include women being warned of the increased risks, say, of breast cancer, when reputable research organisations have examined the evidence and have announced that there is no increased health risk at all. Those groups then give incorrect information about long-term psychological and physical damage—that is, they claim that if you have a termination you will never be able to have another pregnancy. Women who are considering terminating their pregnancy are judged by these so-called ‘counsellors’ as being immoral or, worse, as murderers, when the legislation in Western Australia defines abortion after fully informed consent as lawful. That is often worse than not discussing it at all.

Then there are the organisations that are listed in the Perth Yellow Pages under the heading ‘Pregnancy Counselling and Related Services’. They all refuse to discuss termination as an option and actively work against women having access to pregnancy termination services. They are: Pregnancy Help Line, Abortion Alternatives, Abortion Grief Counselling Association, Pregnancy and Life Education Ministries, Pregnancy Crossroads, Pregnancy Lifeline, Pregnancy Problem House and the Right to Life Association of Western Australia—my favourite. Many women in Western Australia propose that these organisations should be listed under the heading ‘Pregnancy Maintenance Counselling Services’ to avoid their current inaccurate and harmful listing.

The following organisations are pregnancy maintenance counselling services, although they are not actively opposed to abortion: the Community Midwifery Program, Michelle Lewsen and the Pregnancy and Childbirth Information and Resource Centre. Then there are the organisations which are currently listed under ‘Pregnancy Counselling and Related Services’ and should be listed in the category ‘Pregnancy Termination Services’: the Association for the Legal Right to Abortion, Family Planning Western Australia, Rivervale Women’s Centre, and Roe Street Centre. Family Planning Western Australia provides both pregnancy maintenance and pregnancy termination
counselling, which are therefore non-judgmental, and they should actually be listed in both categories.

I am advised that Sensis in Melbourne has said that it will try and fix this problem in the next issue of the Perth Yellow Pages and that any pregnancy related listing in the 24-hour emergency or community section of the Yellow Pages or the White Pages must stipulate whether they are pro life or pro choice. Unfortunately, listings in the normal part of the phone book will not have to abide by this. In that section, there are large ads by anti-choice groups in the ‘Pregnancy Counselling and Related Services’ category. Fortunately, these days women do not just have to rely on the phone book; they also rely on the internet, and the story is much better there. Women, especially younger women, are far more comfortable with the internet and it is a good way for them to access better education and, more importantly, particularly for rural and remote women, confidential information.

An issue I will return to later—as I feel that this debate, unfortunately, is not going to go away—is that research these days seems to indicate that teenage abortion rates are dropping and that most women now seeking termination services are in their 20s and 30s, and many of them already have children. This seems to coincide with better sex education—something I know the member for Moore, Mal Washer, has been calling on the federal government to ensure is provided and fully funded across the education system, be it publicly or privately provided. That is a call that has my full support. (Time expired)

Senate adjourned at 9.55 p.m.

DOCUMENTS

Tabling

The following government documents were tabled:


Mid-year economic and fiscal outlook—2004-05—Statement by the Treasurer (Mr Costello) and the Minister for Finance and Administration (Senator Minchin), December 2004.


Treaty—Bilateral—Text, together with national interest analysis and annexures—Singapore-Australia Free Trade Agreement Amendments.

Tabling

The following documents were tabled by the Clerk:

Made prior to the commencement of the Legislative Instruments Act 2003 on 1 January 2005:

Civil Aviation Act—Civil Aviation Safety Regulations—

Instruments of revocation and remaking of Airworthiness Directives, dated 20 December 2004 [365].

Airworthiness Directives—

Part 105—

Volume 1—Hot Air Balloons [24].

Volume 2—

Aircraft General [83].

Aermacchi—Lockheed AL-60 Series Aeroplanes [12].

Aerospatiale Rallye Series Aeroplanes [32].

Aerospatiale GY 80 (Horizon) Series Aeroplanes [7].

Aerospatiale (Socata) TB9 & TB10 (Tobago) Series Aeroplanes [36].

Aerospatiale (Socata) TB20 (Trinidad) Series Aeroplanes [44].

Aerospatiale (Socata) TB 200 Series Aeroplanes [9].
Aerospatiale (Socata) TBM 700 Series Aeroplanes [37].
Aerostar (Piper/Ted Smith) 600 and 700 Series Aeroplanes [49].
Aircraft Parts & Development (CALL AIR) A-9 Series Aeroplanes [6].
Airparts (NZ) Ltd. FU-24 Series Aeroplanes [63].
Airtractor AT-300, 400 and 500 Series Aeroplanes [25].
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American Champion (Aeronca, Bellanca) Series Aeroplanes [28].
Auster/Beagle A.61 Series Aeroplanes [20].
Avid Flyer Series Aeroplanes [1].
Avions Mudry Cap Series Aeroplanes [8].
Ayres Thrush (Snow) Commander Series Aeroplanes [25].
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Beagle A109 (Airedale) Series Aeroplanes [3].
Beagle B121 (Pup) Series Aeroplanes [31].
Beagle B206 Series Aeroplanes [10].
Beechcraft 18 Series Aeroplanes [23].
Beechcraft 19, 23 & 24 Series Aeroplanes [47].
Beechcraft 33 & 35-33 (Debonair/Bonanza) Series Aeroplanes [44].
Beechcraft 35 (Bonanza) Series Aeroplanes [71].
Beechcraft 36 (Bonanza) Series Aeroplanes [50].
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Beechcraft 55, 58 & 95-55 (Baron) Series Aeroplanes [93].
Beechcraft 56 TC (Turbo Baron) Series Aeroplanes [33].
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Beechcraft 65 and 70 (Queen Air) Series Aeroplanes [69].
Beechcraft 76 (Duchess) Series Aeroplanes [18].
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Beechcraft 90 & 65-90 (King Air) Series Aeroplanes [102].
Beechcraft 95 (Travelair) Series Aeroplanes [32].
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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]:


Civil Aviation Act—
Civil Aviation Regulations—Instruments Nos—
CASA EX 04/2005 [F2005L00662]*.
CASA EX 05/2005 [F2005L00665]*.

Civil Aviation Safety Regulations—Airworthiness Directives—Part—
105—
AD/A320/168—Fuel Pump Bonding [F2005L00568]*.
AD/A330/48—Fire Extinguishing System [F2005L00574]*.
106—AD/AE 3007/4—Starter Adapter Drain [F2005L00575]*.
107—AD/OXY/18—Passenger Emergency Oxygen Generators [F2005L00604]*.

Corporations Act—Select Legislative Instrument 2005 No. 31—Corporations Amendment Regulations 2005 (No. 1) [F2005L00539]*.

Customs Act—
Tariff Concession Orders—
0410024 [F2005L00685]*.
0411190 [F2005L00686]*.
0413696 [F2005L00681]*.
0500318 [F2005L00683]*.

Tariff Concession Revocation Order, dated 4 February 2005 [F2005L00679]*.


Income Tax Assessment Act 1936—Select Legislative Instruments—
2005 No. 32—Income Tax Amendment Regulations 2005 (No. 1) [F2005L00426]*.
2005 No. 33—Income Tax Amendment Regulations 2005 (No. 2) [F2005L00597]*.

Jervis Bay Territory Acceptance Act—Administration Ordinance—Water and Sewerage Services Fees Determination No. 1 of 2005 [F2005L00318]*.

Lands Acquisition Act—Statements describing property acquired by agreement for specified public purposes under sections—
40.
125.

Legislative Instruments Act—Select Legislative Instrument 2005 No. 27—Legislative Instruments Amendment Regulations 2005 (No. 2) [F2005L00540]*.


Superannuation Industry (Supervision) Act—Select Legislative Instrument 2005 No. 34—Superannuation Industry (Supervision) Amendment Regulations 2005 (No. 1) [F2005L00635]*.


Workplace Relations Act—Select Legislative Instrument 2005 No. 35—Workplace Relations Amendment Regulations 2005 (No. 1) [F2005L00546]*.

* Explanatory statement tabled with legislative instrument.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Education, Science and Training: Advertising Campaign**

*(Question No. 133)*

**Senator Faulkner** asked the Minister representing the Minister for Education, Science and Training, upon notice, on 19 November 2004:

(1) Not including any advertising campaigns contained in questions on notice nos 105 to 121 for each of the financial years, 2003-04 and 2004-05 to date:

(a) What is the cost of any current or proposed advertising campaign in the department;

(b) what are the details of the campaign, including: (a) creative agency or agencies engaged; (b) research agency or agencies engaged; (c) the cost of television advertising; (d) the cost and nature of any mail out; and (e) the full cost of advertising placement.

(2) When will the campaign begin, and when is it planned to end.

(3) (a) What appropriations will the department use to authorise any of the 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.

(4) Has a request been made of the Minister for Finance and Administration to issue a drawing right to pay out moneys for any part of the advertising campaign; if so: (a) what are the details of that request; and (b) against which particular appropriation is it requested that the money be paid.

(5) Has the Minister for Finance and Administration issued a drawing right as referred to in paragraph (4) above; if so, what are the details of that drawing right.

(6) Has an official or minister made a payment of public money or debited an amount against an appropriation in accordance with a drawing right issued by the Minister for Finance and Administration for any part of the advertising campaign.

**Senator Vanstone**—The Minister for Education, Science and Training has provided the following answer to the honourable senator’s question:

(1) Not including any advertising campaigns contained in questions on notice nos 105 to 121 for each of the financial years, 2003-04 and 2004-05 to date:

(a) What is the cost of any current or proposed advertising campaign in the department;

Higher Education Reforms Campaign: $0 in 2003-04; $3 million in 2004-05.

(b) what are the details of the campaign, including: (a) creative agency or agencies engaged; (b) research agency or agencies engaged; (c) the cost of television advertising; (d) the cost and nature of any mail out; and (e) the full cost of advertising placement.

(a) creative agency: Batey Red Cell

(b) research agency: Worthington DiMarzio

(c) cost of television advertising: NIL

(d) cost and nature of any mail out: NIL

(e) full cost of advertising placement: $1.7 million has been allocated for the campaign media buy, but these funds are yet to be expended.
Tuesday, 15 March 2005

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QUESTIONS ON NOTICE

(2) When will the campaign begin, and when is it planned to end.
Proposed campaign finish: Late February 2005.

(3) (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.

(4) Has a request been made of the Minister for Finance and Administration to issue a drawing right to pay out moneys for any part of the advertising campaign; if so: (a) what are the details of that request; and (b) against which particular appropriation is it requested that the money be paid.

(5) Has the Minister for Finance and Administration issued a drawing right as referred to in paragraph (4) above; if so, what are the details of that drawing right.

(6) Has an official or minister made a payment of public money or debited an amount against an appropriation in accordance with a drawing right issued by the Minister for Finance and Administration for any part of the advertising campaign.

Answers for questions three to six have previously been provided in response to question 2971.

Live Export Accreditation Program
(Question No. 302)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 21 December 2004:

(1) Does the Australian Quarantine and Inspection Service (AQIS) receive advice from Livecorp on all withdrawals of accreditation and accreditation downgrades under the Live Export Accreditation Program.

(2) Will the Minister provide details of all such accreditation withdrawals for each of the following financial years 2001-02, 2002-03, 2003-04 and 2004-05 to date, including for each withdrawal: (a) the name of the company; (b) the reason for the withdrawal; and (c) the consequential action by AQIS.

(3) Will the Minister provide details of all such accreditation downgrades for each of the following financial years: 2001-02, 2002-03, 2003-04 and 2004-05 to date, including for each downgrade: (a) the name of the company; (b) the change in accreditation level; (c) the reason for the downgrade; and (d) consequential action by AQIS.

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) Livecorp notified AQIS of all accreditation withdrawals but not accreditation downgrades under the Live Export Accreditation Program (LEAP), until 30 November 2004. Since 1 December 2004 LEAP accreditation is no longer a mandatory requirement to obtain a livestock export licence and therefore Livecorp no longer provides accreditation advice to AQIS.

(2) Yes. The details of withdrawals of accreditation and subsequent action by AQIS up till 30 November 2004 are as follows:
<table>
<thead>
<tr>
<th>Year</th>
<th>Company name</th>
<th>Reason</th>
<th>Action by AQIS</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002-03</td>
<td>Power Drive Investments Pty Ltd</td>
<td>Accreditation withdrawn due to inactivity</td>
<td>Licence lapsed</td>
</tr>
<tr>
<td>2002-03</td>
<td>Australian HGC Meat &amp; Livestock Pty Ltd</td>
<td>Accreditation withdrawn due to non-compliance/inactivity</td>
<td>Licence cancelled</td>
</tr>
<tr>
<td>2002-03</td>
<td>First Herald Pty Ltd</td>
<td>Accreditation withdrawn at request of licence holder</td>
<td>Licence cancelled</td>
</tr>
<tr>
<td>2003-04</td>
<td>Price Agriexport Services Pty Ltd</td>
<td>Accreditation withdrawn at request of licence holder</td>
<td>Licence cancelled</td>
</tr>
<tr>
<td>2003-04</td>
<td>Pandros Investments Pty Ltd</td>
<td>Accreditation withdrawn due to non payment of fees</td>
<td>Licence cancelled</td>
</tr>
<tr>
<td>2003-04</td>
<td>Halal Meat International Pty Ltd</td>
<td>Accreditation withdrawn due to non payment of fees</td>
<td>Licence cancelled</td>
</tr>
<tr>
<td>2003-04</td>
<td>Withersfield Pty Ltd</td>
<td>Accreditation withdrawn at request of licence holder</td>
<td>Licence cancelled</td>
</tr>
<tr>
<td>2003-04</td>
<td>Atlas Exports Pty Ltd</td>
<td>Accreditation withdrawn due to non payment of fees</td>
<td>Licence cancelled</td>
</tr>
<tr>
<td>2003-04</td>
<td>Amina International Corporation Pty Ltd</td>
<td>Accreditation withdrawn due to non-compliance/inactivity</td>
<td>Licence cancelled</td>
</tr>
<tr>
<td>2003-04</td>
<td>Westholme Wagyu Pty Ltd</td>
<td>Accreditation withdrawn due to non compliance/inactivity</td>
<td>Licence cancelled</td>
</tr>
<tr>
<td>2003-04</td>
<td>Australian Saudi Arabian Livestock Company Pty Ltd</td>
<td>Accreditation withdrawn at request of licence holder</td>
<td>Licence cancelled</td>
</tr>
<tr>
<td>2003-04</td>
<td>Aus Livestock Exporters Pty Ltd</td>
<td>Accreditation withdrawn due to non compliance/inactivity</td>
<td>Licence cancelled</td>
</tr>
<tr>
<td>2003-04</td>
<td>Yancoft Pty Ltd</td>
<td>Accreditation withdrawn at request of licence holder</td>
<td>Licence cancelled</td>
</tr>
<tr>
<td>2003-04</td>
<td>Donhurst Pty Ltd</td>
<td>Accreditation withdrawn at request of licence holder</td>
<td>Licence cancelled</td>
</tr>
<tr>
<td>2003-04</td>
<td>Accordia Nominees Pty Ltd</td>
<td>Accreditation withdrawn at request of licence holder</td>
<td>Licence cancelled</td>
</tr>
<tr>
<td>2003-04</td>
<td>Alamco Pty Ltd</td>
<td>Accreditation withdrawn due to non compliance/inactivity</td>
<td>Licence cancelled</td>
</tr>
<tr>
<td>2003-04</td>
<td>Izawan Austro Trading Pty Ltd</td>
<td>Accreditation withdrawn at request of licence holder</td>
<td>Licence cancelled</td>
</tr>
<tr>
<td>2004-05</td>
<td>Wellard Rural Exports Pty Ltd</td>
<td>Accreditation withdrawn at request of licence holder</td>
<td>Licence cancelled</td>
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<td>2004-05</td>
<td>Redymeat Australia Pty Ltd</td>
<td>Accreditation withdrawn at request of licence holder</td>
<td>Licence cancelled</td>
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<td>2004-05</td>
<td>Oakleigh Holdings Pty Ltd</td>
<td>Accreditation withdrawn at request of licence holder</td>
<td>Licence cancelled</td>
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<tr>
<td>2004-05</td>
<td>Rockdale Beef Pty Ltd</td>
<td>Accreditation withdrawn due to non payment of fees</td>
<td>Licence cancelled</td>
</tr>
<tr>
<td>2004-05</td>
<td>McNamee Partners Pty Ltd</td>
<td>Accreditation withdrawn due to non payment of fees</td>
<td>Licence cancelled</td>
</tr>
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<td>2004-05</td>
<td>Jupiter Marine (Australia) Pty Ltd</td>
<td>Accreditation withdrawn due to non payment of fees</td>
<td>Licence cancelled</td>
</tr>
<tr>
<td>Year</td>
<td>Company name</td>
<td>Reason</td>
<td>Action by AQIS</td>
</tr>
<tr>
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</tr>
<tr>
<td>2004/05</td>
<td>Noranside Pty Ltd</td>
<td>Accreditation withdrawn due to non payment of fees</td>
<td>Licence cancelled</td>
</tr>
<tr>
<td>2004/05</td>
<td>International Livestock Export Corporation Pty Ltd</td>
<td>Accreditation withdrawn at request of licence holder</td>
<td>Licence cancelled</td>
</tr>
<tr>
<td>2004/05</td>
<td>Australia China International Commerce &amp; Technology Pty Ltd</td>
<td>Accreditation withdrawn at request of licence holder</td>
<td>Licence cancelled</td>
</tr>
<tr>
<td>2004/05</td>
<td>Meat Exporters Capital &amp; Credit Agents</td>
<td>Accreditation withdrawn due to non payment of fees</td>
<td>Licence cancelled</td>
</tr>
<tr>
<td>2004/05</td>
<td>Coastal Export Pty Ltd</td>
<td>Accreditation withdrawn due to non payment of fees</td>
<td>Licence cancelled</td>
</tr>
<tr>
<td>2004/05</td>
<td>Agri-Biotech Pty Ltd</td>
<td>Accreditation withdrawn due to non payment of fees</td>
<td>Licence cancelled</td>
</tr>
<tr>
<td>2004/05</td>
<td>Supreme Livestock Pty Ltd</td>
<td>Accreditation withdrawn due to non payment of fees</td>
<td>Licence cancelled</td>
</tr>
<tr>
<td>L81</td>
<td>Fares Rural Co Pty Ltd</td>
<td>Accreditation withdrawn at request of licence holders</td>
<td>Licence cancelled</td>
</tr>
</tbody>
</table>

*Action by AQIS is determined within the legislation, which provides a period of opportunity for a licence holder to ‘show cause’ as to why their licence should not be cancelled.

(3) The Department does not have information on accreditation downgrades as Livecorp have never supplied such information.

**Agriculture, Fisheries and Forestry: Transport Services**

(**Question No. 316**)

**Senator Hutchins** asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 21 January 2005:

Can the Minister provide: (a) the directives, guidelines or other instructions issued by the department for the procurement of transport services to the department; (b) the date on which such contracts were
agreed; (c) the entity which the Commonwealth has contracted with; and (d) the total costs of these contracts for the 2003-04 financial year.

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(a) Departmental staff adhere to Commonwealth Procurement Guidelines and Chief Executive Instructions when procuring transport services.
(b) 28 July 2004.
(c) Australia Post.
(d) $516,107.