

2004

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

VOTES AND PROCEEDINGS

No. 9

TUESDAY, 7 DECEMBER 2004

1 The House met, at 2 p.m., pursuant to adjournment. The Speaker (the Honourable David Hawker) took the Chair, and read Prayers.

2 QUESTIONS

Questions without notice being asked—

Speaker's ruling

The Speaker ruled that a Minister could not be required to answer a question about matters relating to her former duties as a parliamentary secretary.

Dissent from ruling moved

Mr Latham (Leader of the Opposition) moved—That the ruling be dissented from.

Debate ensued.

Question—put.

The House divided (the Speaker, Mr Hawker, in the Chair)—

AYES, 59

Mr Adams	Ms K. M. Ellis	Mrs Irwin	Ms Plibersek
Mr Albanese	Mr Emerson	Mr Jenkins	Mr Price
Mr Andren	Mr L. Ferguson	Mr Kerr	Mr Quick
Mr Beazley	Mr M. J. Ferguson	Ms C. King	Mr Ripoll
Mr Bevis	Mr Fitzgibbon	Mr Latham	Ms Roxon
Ms Bird	Mr Garrett	Dr Lawrence	Mr Rudd
Mr Bowen	Mr Georganas	Ms Livermore	Mr Sawford
Ms A. E. Burke	Ms George	Mr McClelland	Mr S. F. Smith
Mr A. S. Burke	Mr Gibbons	Ms Macklin	Mr Swan
Mr Byrne	Ms Gillard	Mr McMullan	Mr Tanner
Mr Crean	Ms Grierson	Mr Melham	Mr K. J. Thomson
Mr Danby*	Mr Griffin	Mr Murphy	Ms Vamvakinou
Mr Edwards	Ms Hall*	Mr B. P. O'Connor	Mr Wilkie
Mrs Elliot	Mr Hatton	Mr G. M. O'Connor	Mr Windsor
Ms A. L. Ellis	Ms Hoare	Ms Owens	

NOES, 83

Mr Abbott	Mr Entsch	Jackie Kelly	Mr Schultz
Mr Anderson	Mr Farmer	Mr Laming	Mr Scott
Mr Andrews	Mr Fawcett	Mrs Ley	Mr Secker
Fran Bailey	Mr M. D. Ferguson	Mr Lindsay	Mr Slipper
Mr Baird	Mr Forrest*	Mr Lloyd	Mr A. D. H. Smith
Mr Baker	Ms Gambaro	Mr McArthur*	Mr Somlyay
Mr Baldwin	Mrs Gash	Mr Macfarlane	Dr Southcott
Mr Barresi	Mr Georgiou	Mr McGauran	Dr Stone
Mr Bartlett	Mr Haase	Mrs Markus	Mr C. P. Thompson
Mrs B. K. Bishop	Mr Hardgrave	Mrs Moylan	Mr Ticehurst
Ms J. Bishop	Mr Hartsuyker	Mr Nairn	Mr Tollner
Mr Broadbent	Mr Henry	Dr Nelson	Mr Truss
Mr Brough	Mr Hockey	Mr Neville	Mr Tuckey
Mr Cadman	Mr Howard	Ms Panopoulos	Mr Turnbull
Mr Causley	Mrs Hull	Mr Pearce	Mr M. A. J. Vaile
Mr Ciobo	Mr Hunt	Mr Prosser	Mrs D. S. Vale
Mr Cobb	Dr Jensen	Mr Pyne	Mr Vasta
Mr Costello	Mr Johnson	Mr Randall	Mr Wakelin
Mrs Draper	Mr Jull	Mr Richardson	Dr Washer
Mr Dutton	Mr Keenan	Mr Robb	Mr Wood
Mrs Elson	Mrs D. M. Kelly	Mr Ruddock	

* Tellers

And so it was negatived.

Questions without notice concluded.

3 SUSPENSION OF STANDING AND SESSIONAL ORDERS MOVED

Mr Latham (Leader of the Opposition) moved—That so much of the standing and sessional orders be suspended as would prevent the Minister for Veterans' Affairs from explaining to the House on what basis she signed a letter dated 2 December on her letterhead as Parliamentary Secretary dealing with a grant under the Regional Partnerships Program.

Question—put and passed, with the concurrence of an absolute majority.

Mrs D. M. Kelly (Minister for Veterans' Affairs) addressed the House.

4 SUSPENSION OF STANDING AND SESSIONAL ORDERS MOVED

Mr Latham (Leader of the Opposition) moved—That so much of the standing and sessional orders be suspended as would prevent the Leader of the Opposition moving forthwith: That this House censures the Minister for Veterans' Affairs for:

- (1) purporting to act as Parliamentary Secretary to the Minister for Transport and Regional Services while no longer entitled to and signing a letter dated 2 December to the Member for Capricornia dealing with monies under the Regional Partnerships Program;
- (2) improperly continuing to deal with arrangements in respect of funding under the Regional Partnerships Program;
- (3) refusing to provide any proper explanation of her role as Parliamentary Secretary in relation to the grant to A2 Milk Marketeers and her employment, in breach of the Ministerial Code of Conduct, of Mr Ken Crooke, a person with a clear conflict of interest; and
- (4) refusing to provide any proper explanation of her role in continuing to deal with funding under the Regional Partnerships Program after she ceased to be Parliamentary Secretary to the Minister for Transport and Regional Services.

Closure of Member

Mr Abbott (Leader of the House) moved—That the Member be not further heard.

Question—put.

The House divided (the Speaker, Mr Hawker, in the Chair)—

AYES, 83

Mr Abbott	Mr Entsch	Jackie Kelly	Mr Schultz
Mr Anderson	Mr Farmer	Mr Laming	Mr Scott
Mr Andrews	Mr Fawcett	Mrs Ley	Mr Secker
Fran Bailey	Mr M. D. Ferguson	Mr Lindsay	Mr Slipper
Mr Baird	Mr Forrest*	Mr Lloyd	Mr A. D. H. Smith
Mr Baker	Ms Gambaro	Mr McArthur*	Mr Somlyay
Mr Baldwin	Mrs Gash	Mr Macfarlane	Dr Southcott
Mr Barresi	Mr Georgiou	Mr McGauran	Dr Stone
Mr Bartlett	Mr Haase	Mrs Markus	Mr C. P. Thompson
Mrs B. K. Bishop	Mr Hardgrave	Mrs Moylan	Mr Ticehurst
Ms J. Bishop	Mr Hartsuyker	Mr Nairn	Mr Tollner
Mr Broadbent	Mr Henry	Dr Nelson	Mr Truss
Mr Brough	Mr Hockey	Mr Neville	Mr Tuckey
Mr Cadman	Mr Howard	Ms Panopoulos	Mr Turnbull
Mr Causley	Mrs Hull	Mr Pearce	Mr M. A. J. Vaile
Mr Ciobo	Mr Hunt	Mr Prosser	Mrs D. S. Vale
Mr Cobb	Dr Jensen	Mr Pyne	Mr Vasta
Mr Costello	Mr Johnson	Mr Randall	Mr Wakelin
Mrs Draper	Mr Jull	Mr Richardson	Dr Washer
Mr Dutton	Mr Keenan	Mr Robb	Mr Wood
Mrs Elson	Mrs D. M. Kelly	Mr Ruddock	

NOES, 58

Mr Adams	Mr Emerson	Mr Jenkins	Mr Price
Mr Albanese	Mr L. Ferguson	Mr Kerr	Mr Quick
Mr Beazley	Mr M. J. Ferguson	Ms C. King	Mr Ripoll
Mr Bevis	Mr Fitzgibbon	Mr Latham	Ms Roxon
Ms Bird	Mr Garrett	Dr Lawrence	Mr Rudd
Mr Bowen	Mr Georganas	Ms Livermore	Mr Sawford
Ms A. E. Burke	Ms George	Mr McClelland	Mr S. F. Smith
Mr A. S. Burke	Mr Gibbons	Ms Macklin	Mr Swan
Mr Byrne	Ms Gillard	Mr McMullan	Mr Tanner
Mr Crean	Ms Grierson	Mr Melham	Mr K. J. Thomson
Mr Danby*	Mr Griffin	Mr Murphy	Ms Vamvakinou
Mr Edwards	Ms Hall*	Mr B. P. O'Connor	Mr Wilkie
Mrs Elliot	Mr Hatton	Mr G. M. O'Connor	Mr Windsor
Ms A. L. Ellis	Ms Hoare	Ms Owens	
Ms K. M. Ellis	Mrs Irwin	Ms Plibersek	

* Tellers

And so it was resolved in the affirmative.

Mr K. J. Thomson (seconder) addressing the House—

Closure of Member

Mr Abbott moved—That the Member be not further heard.

Question—put.

The House divided (the Speaker, Mr Hawker, in the Chair)—

AYES, 83

Mr Abbott	Mr Entsch	Jackie Kelly	Mr Schultz
Mr Anderson	Mr Farmer	Mr Laming	Mr Scott
Mr Andrews	Mr Fawcett	Mrs Ley	Mr Secker
Fran Bailey	Mr M. D. Ferguson	Mr Lindsay	Mr Slipper
Mr Baird	Mr Forrest*	Mr Lloyd	Mr A. D. H. Smith
Mr Baker	Ms Gambaro	Mr McArthur*	Mr Somlyay
Mr Baldwin	Mrs Gash	Mr Macfarlane	Dr Southcott
Mr Barresi	Mr Georgiou	Mr McGauran	Dr Stone
Mr Bartlett	Mr Haase	Mrs Markus	Mr C. P. Thompson
Mrs B. K. Bishop	Mr Hardgrave	Mrs Moylan	Mr Ticehurst
Ms J. Bishop	Mr Hartsuyker	Mr Nairn	Mr Tollner
Mr Broadbent	Mr Henry	Dr Nelson	Mr Truss
Mr Brough	Mr Hockey	Mr Neville	Mr Tuckey
Mr Cadman	Mr Howard	Ms Panopoulos	Mr Turnbull
Mr Causley	Mrs Hull	Mr Pearce	Mr M. A. J. Vaile
Mr Ciobo	Mr Hunt	Mr Prosser	Mrs D. S. Vale
Mr Cobb	Dr Jensen	Mr Pyne	Mr Vasta
Mr Costello	Mr Johnson	Mr Randall	Mr Wakelin
Mrs Draper	Mr Jull	Mr Richardson	Dr Washer
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Mr Albanese	Mr L. Ferguson	Mr Kerr	Mr Quick
Mr Beazley	Mr M. J. Ferguson	Ms C. King	Mr Ripoll
Mr Bevis	Mr Fitzgibbon	Mr Latham	Ms Roxon
Ms Bird	Mr Garrett	Dr Lawrence	Mr Rudd
Mr Bowen	Mr Georganas	Ms Livermore	Mr Sawford
Ms A. E. Burke	Ms George	Mr McClelland	Mr S. F. Smith
Mr A. S. Burke	Mr Gibbons	Ms Macklin	Mr Swan
Mr Byrne	Ms Gillard	Mr McMullan	Mr Tanner
Mr Crean	Ms Grierson	Mr Melham	Mr K. J. Thomson
Mr Danby*	Mr Griffin	Mr Murphy	Ms Vamvakinou
Mr Edwards	Ms Hall*	Mr B. P. O'Connor	Mr Wilkie
Mrs Elliot	Mr Hatton	Mr G. M. O'Connor	
Ms A. L. Ellis	Ms Hoare	Ms Owens	
Ms K. M. Ellis	Mrs Irwin	Ms Plibersek	

* Tellers

And so it was resolved in the affirmative.

Question—That the motion be agreed to—put.

The House divided (the Speaker, Mr Hawker, in the Chair)—

AYES, 57

Mr Adams	Mr Emerson	Mr Jenkins	Mr Price
Mr Albanese	Mr L. Ferguson	Mr Kerr	Mr Quick
Mr Beazley	Mr M. J. Ferguson	Ms C. King	Mr Ripoll
Mr Bevis	Mr Fitzgibbon	Mr Latham	Ms Roxon
Ms Bird	Mr Garrett	Dr Lawrence	Mr Rudd
Mr Bowen	Mr Georganas	Ms Livermore	Mr Sawford
Ms A. E. Burke	Ms George	Mr McClelland	Mr S. F. Smith
Mr A. S. Burke	Mr Gibbons	Ms Macklin	Mr Swan
Mr Byrne	Ms Gillard	Mr McMullan	Mr Tanner
Mr Crean	Ms Grierson	Mr Melham	Mr K. J. Thomson
Mr Danby*	Mr Griffin	Mr Murphy	Ms Vamvakinou
Mr Edwards	Ms Hall*	Mr B. P. O'Connor	Mr Wilkie
Mrs Elliot	Mr Hatton	Mr G. M. O'Connor	
Ms A. L. Ellis	Ms Hoare	Ms Owens	
Ms K. M. Ellis	Mrs Irwin	Ms Plibersek	

NOES, 83

Mr Abbott	Mr Entsch	Jackie Kelly	Mr Schultz
Mr Anderson	Mr Farmer	Mr Laming	Mr Scott
Mr Andrews	Mr Fawcett	Mrs Ley	Mr Secker
Fran Bailey	Mr M. D. Ferguson	Mr Lindsay	Mr Slipper
Mr Baird	Mr Forrest*	Mr Lloyd	Mr A. D. H. Smith
Mr Baker	Ms Gambaro	Mr McArthur*	Mr Somlyay
Mr Baldwin	Mrs Gash	Mr Macfarlane	Dr Southcott
Mr Barresi	Mr Georgiou	Mr McGauran	Dr Stone
Mr Bartlett	Mr Haase	Mrs Markus	Mr C. P. Thompson
Mrs B. K. Bishop	Mr Hardgrave	Mrs Moylan	Mr Ticehurst
Ms J. Bishop	Mr Hartsuyker	Mr Nairn	Mr Tollner
Mr Broadbent	Mr Henry	Dr Nelson	Mr Truss
Mr Brough	Mr Hockey	Mr Neville	Mr Tuckey
Mr Cadman	Mr Howard	Ms Panopoulos	Mr Turnbull
Mr Causley	Mrs Hull	Mr Pearce	Mr M. A. J. Vaile
Mr Ciobo	Mr Hunt	Mr Prosser	Mrs D. S. Vale
Mr Cobb	Dr Jensen	Mr Pyne	Mr Vasta
Mr Costello	Mr Johnson	Mr Randall	Mr Wakelin
Mrs Draper	Mr Jull	Mr Richardson	Dr Washer
Mr Dutton	Mr Keenan	Mr Robb	Mr Wood
Mrs Elson	Mrs D. M. Kelly	Mr Ruddock	

* Tellers

And so it was negatived.

5 DOCUMENTS

The Speaker presented the following documents:

Commonwealth Ombudsman's report on activities in monitoring controlled operations conducted by the Australian Crime Commission and the Australian Federal Police for 2003-04.

House of Representatives—Schedule showing the allocation of annual reports of departments, agencies, authorities and companies to general purpose standing committees and certain joint committees.

6 DOCUMENTS

The following documents were presented:

Administrative Review Council—Report on automated assistance in administrative decision making, November 2004.

Department of Veterans' Affairs—Data-matching program—Report on Progress 2002–2004.

Freedom of Information Act—Report for 2003-04.

National Transport Commission—Report for 2003-04.

Natural Heritage Trust—Report for 2002-03.

Sydney Airport Demand Management Act—Quarterly report on movement cap for Sydney airport—1 July to 30 September 2004.

Treaties—

Bilateral—Text, together with national interest analysis and annexures—Agreement between the Government of Australia and the Government of the Republic of Poland relating to Air Services, done at Warsaw on 28 April 2004.

List of multilateral treaty actions under negotiation, consideration or review by the Australian Government as at December 2004.

List of proposed treaty actions referred to the Joint Standing Committee on Treaties in the 40th Parliament, December 2004.

Multilateral—Text, together with national interest analysis and annexures—

Amendment in order to admit Mongolia as a country of operations to the Agreement establishing the European Bank for Reconstruction and Development (EBRD), done at Paris on 29 May 1990.

Amendments, done at Sorrento, Italy, on 22 July 2004, to the Schedule to the International Convention for the Regulation of Whaling, done at Washington on 2 December 1946.

United Nations Convention against Corruption (New York on 31 October 2003).

Wheat Marketing Act—Wheat marketing review 2004—Growers' report.

7 DOCUMENTS—MOTION TO TAKE NOTE OF DOCUMENTS

Mr Abbott (Leader of the House) moved—That the House take note of the following documents:

Freedom of Information Act—Report for 2003-04.

National Transport Commission—Report for 2003-04.

Sydney Airport Demand Management Act—Quarterly report for movement cap for Sydney Airport—1 July to 30 September 2004.

Debate adjourned (Ms Gillard), and the resumption of each debate made an order of the day for the next sitting.

8 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—KYOTO PROTOCOL

The House was informed that Mr Albanese had proposed that a definite matter of public importance be submitted to the House for discussion, namely, “The Government’s refusal to ratify the Kyoto Protocol”.

The proposed discussion having received the necessary support—

Mr Albanese addressed the House.

Discussion ensued.

Discussion concluded.

9 MATTERS REFERRED TO MAIN COMMITTEE

Mr Bartlett (Chief Government Whip), by leave, moved—That the following bills be referred to the Main Committee for further consideration:

Water Efficiency Labelling and Standards 2004;

Financial Framework Legislation Amendment 2004;

Fisheries (Validation of Plans of Management) 2004;

Family Law Amendment (Annuities) 2004;

Australian Passports 2004;

Australian Passports (Application Fees) 2004; and

Australian Passports (Transitionals and Consequentials) 2004.

Question—put and passed.

10 MESSAGES FROM THE SENATE

Messages from the Senate were reported:

- (a) returning the following bills without amendment:
 - No. 22—Vocational Education and Training Funding Amendment 2004—6 December 2004;
 - No. 24—States Grants (Primary and Secondary Education Assistance) Legislation Amendment 2004—6 December 2004; and
 - No. 26—Indigenous Education (Targeted Assistance) Amendment 2004—7 December 2004; and
- (b) acquainting the House that Senator Crossin had been discharged from attendance on the Joint Standing Committee on Foreign Affairs, Defence and Trade, and Senator Cook had been appointed a member of the committee—No. 25—6 December 2004.

11 MESSAGE FROM THE SENATE—SCHOOLS ASSISTANCE (LEARNING TOGETHER—ACHIEVEMENT THROUGH CHOICE AND OPPORTUNITY) BILL 2004

Message No. 23, 6 December 2004, from the Senate was reported returning the Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Bill 2004 with amendments.

Ordered—That the amendments be considered immediately.

On the motion of Dr Nelson (Minister for Education, Science and Training), the amendments were disagreed to, after debate.

Dr Nelson presented reasons, which were circulated, and are as follows:

*Reasons of the House of Representatives for disagreeing to the amendments of the Senate
Senate Amendments 1, 2 and 5*

These amendments seek to insert a definition of ‘need’ into the Act. They also require States, Territories and non-government education authorities to commit to give priority in the allocation of funding according to need. The Government supports the provision of funding to schools on a needs basis and this principle underpins Australian Government funding for schools.

The Australian Government funds non-government schools according to a formula which measures the socioeconomic status (SES) of the communities from which a school draws its students.

The SES funding model involves linking student residential addresses to Australian Bureau of Statistics (ABS) national Census data to obtain a socioeconomic profile of the school community (based on occupation, education and income) and measuring its capacity to support the school. The SES approach, unlike the Education Resources Index (ERI) system which it replaced, is transparent and objective, based on independent data that are consistent for all schools.

One of the key principles that underpin the SES model is that private investment in education should not be discouraged, and therefore, it does not take into account a school’s private income from fees or any other sources. The amendment contradicts this principle.

To include a definition of “need” in the legislation, which covers a range of schools programmes, unnecessarily limits how need may be interpreted and could adversely affect the funding of schools. The definition of ‘need’ is very broad and potentially could make it difficult for States/systems to target funding for specific needs groups of students.

Any definition of need is best accommodated within specific programme guidelines for particular programmes, as is currently the case. The Australian Government provides funding for schools under the Capital Grants Programme and a number of targeted programmes such as the Literacy, Numeracy and Special Learning Needs Programme, the Country Areas Programme, the Languages Programme, and the English as a Second Language—New Arrivals Programme. Funding for these programmes is predominantly allocated according to need and educational disadvantage.

State and Territory government and non-government school education authorities are responsible for the detailed administration of the school funding programmes in their systems and schools. Under the current arrangements, school education authorities have the flexibility to make decisions on which schools have the greatest need for additional assistance, including for educationally disadvantaged students, and to determine appropriate funding amounts for those schools. Schools also have the flexibility to use funding to meet the needs of their students.

The Agreement conditions are also comprehensive and set out the expected outcomes and reporting and a commitment to meeting the National Goals for Schooling, which are already agreed by all governments.

In addition, the subject matter of the bill as it currently stands has been the subject of consultations with all State and non-government education authorities, peak bodies and other major stakeholders. The Government is conscious of previous strong criticisms from State Governments and the non-government sector where it undertakes amendments to Commonwealth legislation which can have implications for government and non-government school authorities without the opportunity for prior detailed consultation on the form of procedures of this type and their implementation.

There has been no correspondingly extensive consultation with the education sector on the proposed amendment.

Accordingly the House of Representatives does not accept these amendments.

Senate Amendments 3 and 6

These amendments propose to change the wording on the commitment concerning principal autonomy to provide flexibility for system wide recruitment incentives particularly in hard to staff schools in isolated regions. The Government has already responded to this concern by including in the Bill a provision that a commitment to give the principal and governing body autonomy over matters including staffing should be “within a supportive framework of broad systemic policies” [*Refer to Part 2, sections 14(k) and 31(k) of the bill*].

The proposed amendment is superfluous and does no more than express in different words the existing provision for teacher appointments to be made within a supportive framework of systemic policies. That provision recognises the need for school systems to implement policies and practices that ensure good teachers are available in the required numbers for all schools—especially in the case of rural and remote schools. The specific requirements in relation to this provision will be set out in the Regulations as part of the school performance reporting element and will reflect this consideration also.

Recent educational research indicates that highly effective schools have strong and effective school leaders who drive the development of school policies and practices. The provision (on school/principal autonomy) will strengthen the ability of school leaders to make effective teacher appointments for their schools.

Accordingly the House of Representatives does not accept these amendments.

Senate Amendments 4 and 7

These amendments propose to insert a number of principles for reporting on students’ learning and school performance. The bill already contains a strong accountability and reporting framework with a focus on improving student outcomes. The educational interests of students are best served through commitment and focus to improving student outcomes

Parents need student reports that are meaningful and use plain English enabling them to better assist their child’s learning and development. It’s time to place parents more firmly at the centre of schooling.

The bill includes provisions for greater disclosure by schools of their performance. There is an urgent need for greater transparency and accountability from schools to parents and the community.

School performance information is not readily accessible or meaningful and parents need better information to inform decisions about their child’s schooling.

It is important that schools publish a broad range of information on their achievement and programmes so that parents can choose a school that best suits their child’s needs.

It is important to keep a strong focus on outcomes, not just inputs. How many school students are achieving national literacy and numeracy benchmarks? What are the outcomes in senior secondary schools—retention rates and academic achievement?

Regulations accompanying the bill will set out minimum requirements for school performance information. Schools will be able to inform parents and publish information of other their policies and programmes on offer.

An earlier report prepared by Professor Peter Cuttance and Shirley Stokes, *Reporting on Student and School Achievement*, surveyed over 500 parents to identify principles of best practice in reporting student and school achievement. These have played an important role in forming a stronger accountability and performance framework seen in the current legislation

Accordingly the House of Representatives does not accept these amendments.

Senate Amendment 8

This amendment requires non-government schools to publicly report all sources of gross income received and all gross expenditure. The Australian Government strongly supports all educational authorities publishing the total amount of public funds that the school receives. The Australian Government has published the amount of general recurrent funding that every non-government school in Australia will receive each year from 2003-08.

The Australian Government does not believe it appropriate to require the publishing of the detailed financial accounts of non-government schools as they are independent entities. Further, such a requirement has not been discussed with the Catholic and Independent school sectors. The Australian Government believes that the sector should be consulted before new requirements are imposed on them.

Non-government schools provide detailed financial information to the Australian Government in order to ensure full accountability of the public funds that they receive from the Australian Government. Non-government school authorities must, among things, provide financial accountability each year, in the form of a certificate, signed by an accountant, to the effect that funds have been spent, or committed, for the purpose for which they were provided.

Accordingly the House of Representatives does not accept these amendments.

Senate Amendment 9

This amendment requires non-government schools to publish any exclusion policy and practices. As private entities it is the right of individual schools to implement whatever enrolment policies are in line with their educational philosophies. However, to be eligible for Australian Government funding, all non-government schools must meet the same obligations regardless of their particular religious or educational philosophy. It is also a condition of funding that the schools commit themselves to Australia's National Goals for Schooling in the Twenty-First Century.

The *National Goals* include the provisions that “*students’ outcomes from schooling are free from the effects of negative forms of discrimination based on sex, language, culture and ethnicity, religion or disability; and of differences arising from students’ socio-economic background or geographical location*” and that “*all students understand and acknowledge the value of cultural and linguistic diversity, and possess the knowledge, skills and understanding to contribute to, and benefit from, such diversity in the Australian community and internationally*”.

Accordingly the House of Representatives does not accept these amendments.

Senate Amendments 10 and 11

These amendments seek to provide a process for system or state-wide priorities for the assessment of the allocation of capital grants for government and non-government schools; an explicit reference to the distribution of capital funding on a relative needs basis for schools; and require parents to be explicitly involved in the process of setting priorities for capital expenditure. These amendments are unnecessary. It is not necessary to legislate this level of detail in relation to programme administration and consultation. The Administrative Guidelines, which form part of the funding agreements specify detailed requirements for the Capital Grants in terms of allocating funding, assessment and reporting requirements.

Under these guidelines, the Block Grant Authorities (which administer the capital money for non-government schools) already determine the priorities for funding on the basis of the relative educational disadvantage of the schools. In determining educational disadvantage, they take into account the SES score of the schools, number of isolated and special needs children and health and safety issues.

Accordingly the House of Representatives does not accept these amendments.

Senate Amendment 12

This amendment seeks a review of resources for all schools before 31 December 2005 including a report on the buildings, facilities and equipment available at every school in Australia. Australian Government capital funding for government schools has been maintained in real terms and increased in actual dollars. The principal responsibility for maintaining the fabric of Australia's schools systems rests with State and Territory governments. The States and Territories have the major responsibility for State schools, which they own and manage. The Government encourages States to undertake proper planning for all their schools consistent with their responsibility for managing their school systems. The

undertaking of such a review in government schools would need to be considered by States and Territories.

In 2002, DEST published an analysis of non-government school infrastructure *Taking Stock—Report of the Survey of Non-Government Schools Infrastructure in Australia 2000/2001*. The report presents key findings from the National Survey of Non-Government Schools Infrastructure in 2000 and 2001. The survey collected a broad range of data that demonstrate sufficiency, condition and suitability of infrastructure in the non-government sector. This information has been valuable in informing procedures under the Capital Grants programme. In addition Block Grant Authorities have a sound knowledge and understanding of the state of school infrastructure in their respective regions.

Accordingly the House of Representatives does not accept these amendments.

Senate Amendment 13

This amendment seeks a review of the impact of the reforms enacted under the bill to be completed before 30 June 2006. The Australian Government does not believe it should mandate such a significant review without the opportunity for detailed consultation on scope and processes with government and non-government school authorities and with other relevant agencies. Adding such amendments to this legislation without consultation is not the way to proceed

The Australian Government is the single largest funder of school education. As such it has the right to set financial, policy and administrative directions. The Australian Government will exercise its leadership role in schooling in areas where national reform is required. This may involve consideration by Ministers through MCEETYA processes on specific matters. However the Australian Government has the right and the responsibility to attach conditions to its very significant schools funding to ensure that these important reforms are implemented.

Accordingly the House of Representatives does not accept these amendments.

On the motion of Dr Nelson, the reasons were adopted.

12 COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS—STANDING COMMITTEE

The House was informed that the Chief Opposition Whip had nominated Mr Garrett to be a member of the Standing Committee on Communications, Information Technology and the Arts in place of Mr Gibbons.

Ms Gambaro (Parliamentary Secretary to the Minister for Defence), by leave, moved—That Mr Gibbons be discharged from the Standing Committee on Communications, Information Technology and the Arts and that, in his place, Mr Garrett be appointed a member of the committee.

Question—put and passed.

13 TAX LAWS AMENDMENT (SMALL BUSINESS MEASURES) BILL 2004

The order of the day having been read for the resumption of the debate on the question—That the bill be now read a second time—

Debate resumed by Mr Fitzgibbon who moved, as an amendment—That all words after “That” be omitted with a view to substituting the following words: “whilst not declining to give the bill a second reading, Labor condemns the Government for:

- (1) not adequately addressing the significant burden placed on small business by the introduction of the GST; and
- (2) failing to adopt Labor’s Simpler BAS Option that would allow small businesses to use an ATO determined ratio to calculate their quarterly GST payments, with no annual or quarterly reconciliations thus freeing small business owners of the burdensome compliance requirements of the current regime”.

Debate continued.

Amendment negatived.

Question—That the bill be now read a second time—put and passed—bill read a second time.

Leave granted for third reading to be moved immediately.

On the motion of Mr Brough (Minister for Revenue and Assistant Treasurer), the bill was read a third time.

14 TAX LAWS AMENDMENT (RETIREMENT VILLAGES) BILL 2004

The order of the day having been read for the resumption of the debate on the question—That the bill be now read a second time—*And on the amendment moved thereto by Mr Fitzgibbon, viz.*—That all words after “That” be omitted with a view to substituting the following words: “whilst not declining to give the bill a second reading, the House condemns the Government for failing to correct the tax anomaly earlier, leading to significant stress and suffering on elderly Australians”—

Debate resumed.

Amendment negatived.

Question—That the bill be now read a second time—put and passed—bill read a second time.

Message from the Governor-General

Message No. 13, 19 November 2004, from His Excellency the Governor-General was announced recommending an appropriation for the purposes of the bill.

Leave granted for third reading to be moved immediately.

On the motion of Mr Brough (Minister for Revenue and Assistant Treasurer), the bill was read a third time.

15 MESSAGES FROM THE SENATE

Messages from the Senate, 7 December 2004, were reported:

- (1) informing the House that, in accordance with the *Native Title Act 1993*, Senator Lees has been appointed a member of the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund—No. 28;
- (2) acquainting the House of the following resolution agreed to by the Senate: That the Senate—
 - (a) recalls that on 2 December 2002 a proposed agreement between Australia and the United States of America (US), pursuant to which Australia would agree not to surrender US nationals to the International Criminal Court without the consent of the US (the proposed agreement) was referred to the Joint Standing Committee on Treaties for inquiry and report;
 - (b) notes correspondence from the secretary of the committee to the Clerk of the Senate, dated 16 July 2003, which:
 - (i) stated that ‘as far as the Committee is aware, there is no such proposed agreement’ and that it had ‘therefore decided to defer commencing the inquiry into the matter referred until the text of such an agreement is made available to the Committee’, and
 - (ii) however, acknowledged that ‘the Committee is empowered to inquire into any question relating to a treaty or other international agreement, whether or not negotiated to completion, referred to the Committee by either House’;
 - (c) further notes:
 - (i) the report on ABC Radio’s *PM* program of 28 August 2002, that the US had written to the Australian Government, requesting it to enter into the proposed agreement and that, according to the Minister for Foreign Affairs, the Government was ‘sympathetic’ to the request,
 - (ii) the report on Network Nine’s *Sunday* program of 8 September 2002, in which the then Attorney-General indicated that the US had requested Australia to enter into the proposed agreement and that the Australian Government had no objection to the proposed agreement, and
 - (iii) evidence from Department of Foreign Affairs and Trade officials on 19 February 2004 that negotiations with the US were ongoing and that, at that time, the most recent meeting had been in December 2003; and
 - (d) recalls that on 30 August 2004, it again referred the proposed agreement to the committee for inquiry and report by 30 April 2005;
 - (e) notes that:
 - (i) the committee had not commenced the inquiry prior to the proroguing of the 40th Parliament, and
 - (ii) the reference lapsed with the proroguing of the 40th Parliament; and

- (f) refers the proposed agreement, with particular reference to the following matters, to the Joint Standing Committee on Treaties for inquiry and report by 30 June 2005:
 - (i) whether the proposed agreement would breach the terms, or be otherwise inconsistent with the spirit, of the Rome Statute which Australia has ratified,
 - (ii) the effect of the proposed agreement, either itself or in conjunction with similar agreements between the United States and other states, on the ability of the International Criminal Court to effectively fulfil its intended function,
 - (iii) the implications of any extradition provisions in the proposed agreement and whether the proposed agreement would require the re-negotiation of existing extradition agreements to which Australia is a party, and
 - (iv) the implications of the proposed agreement with respect to Australia's national interest—No. 29.
- (3) returning the following bills without amendment:
 - No. 30—Textile, Clothing and Footwear Strategic Investment Program Amendment (Post-2005 Scheme) 2004; and
 - No. 31—Customs Tariff Amendment (Textile, Clothing and Footwear Post-2005 Arrangements) 2004.

16 JAMES HARDIE (INVESTIGATIONS AND PROCEEDINGS) BILL 2004

The order of the day having been read for the resumption of the debate on the question—That the bill be now read a second time—

Debate resumed.

Question—put and passed—bill read a second time.

Leave granted for third reading to be moved immediately.

On the motion of Mr Pearce (Parliamentary Secretary to the Treasurer), the bill was read a third time.

17 MESSAGE FROM THE SENATE—AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION AMENDMENT BILL 2004

Message No. 27, 7 December 2004, from the Senate was reported returning the Australian Security Intelligence Organisation Amendment Bill 2004 with amendments.

Ordered—That the amendments be considered immediately.

On the motion of Mr Ruddock (Attorney-General), the amendments were disagreed to, after debate.

Mr Ruddock presented reasons, which were circulated, and are as follows:

Reasons of the House of Representatives for disagreeing to the amendments of the Senate

Senate Amendment Numbers (1)–(3)—‘prescribed thing’

This amendment would remove the term ‘thing’ and insert the term ‘prescribed thing’, and a definition of ‘prescribed thing’, in the bill.

This approach is inconsistent with the rest of paragraph (a) of the definition of ‘prescribed administrative action’ in section 35 of the *Australian Security Intelligence Organisation Act 1979*.

The term ‘thing, other than information or a place’ is used because it is important that there be appropriate flexibility within the Act, particularly in our changing security environment. The other parts of the definition of ‘prescribed administrative action’ which refer to access to ‘information’ or a ‘place’ are equally as broad as ‘thing, other than information or a place’. As with the terms ‘information’ and ‘place’, the term ‘thing, other than information or a place’ is limited by the rest of the definition which requires a person’s ability—to perform an activity in relation to or involving the thing—to be controlled or limited on security grounds.

Accordingly, the House of Representatives does not accept these amendments.

On the motion of Mr Ruddock, the reasons were adopted.

18 NATIONAL SECURITY INFORMATION (CRIMINAL PROCEEDINGS) BILL 2004

The order of the day having been read for the second reading—Mr Ruddock (Attorney-General) moved—That the bill be now read a second time.

Document

Mr Ruddock presented a supplementary explanatory memorandum to the bill.

Debate adjourned (Mr McClelland), and the resumption of the debate made an order of the day for a later hour this day.

19 NATIONAL SECURITY INFORMATION (CRIMINAL PROCEEDINGS) (CONSEQUENTIAL AMENDMENTS) BILL 2004

The order of the day having been read for the second reading—Mr Ruddock (Attorney-General) moved—That the bill be now read a second time.

Debate adjourned (Mr McClelland), and the resumption of the debate made an order of the day for a later hour this day.

20 ADJOURNMENT

Mr Nairn (Parliamentary Secretary to the Prime Minister) moved—That the House do now adjourn.

Debate ensued.

Question—put and passed.

And then the House, at 11.30 p.m., adjourned until tomorrow at 9 a.m.

DOCUMENTS

The following documents were deemed to have been presented on 7 December 2004:

Civil Aviation Act—Civil Aviation Regulations—

Civil Aviation Amendment Orders—2004 Nos 7, 9 10.

Exemption—2004 No. CASA EX40.

Instruments—2004 Nos CASA 546, CASA 547, CASA 551, CASA 561.

Higher Education Support Act—Higher education provider—Notice of approval, 1 December 2004.

ATTENDANCE

All Members attended (at some time during the sitting) except Mr Downer, Mr Katter, Mrs May, Mr Sercombe and Mr Snowdon.

I. C. HARRIS
Clerk of the House of Representatives