

Senate Finance and Public Administration Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Prime Minister and Cabinet Portfolio

Department of the Prime Minister and Cabinet

Budget Estimates Hearings 2005-2006, 13 February 2006

Question: PM 20

Outcome 1, Output 4.3

Topic: Treason Offences

Hansard Page: F&PA 106-107

Senator Murray asked: In what instances would an Australian government — both in precedent terms and in present circumstances — initiate a proclamation which would trigger treason and treachery offences?

Answer: Section 80.1 of the Criminal Code establishes the offence of treason. Subsection 80.1(1) sets out a range of actions that would constitute treason, in paragraphs 80.1(1)(a)-(h). Of those, only paragraph 80.1(1)(e) (and, as a consequence, paragraph 80.1(1)(h) in certain circumstances) turns on the existence of a Proclamation.

Paragraph 80.1(1)(e) provides that a person commits the offence of treason if the person

engages in conduct that assists by any means whatever, with intent to assist, an enemy:

- (i) at war with the Commonwealth, whether or not the existence of a state of war has been declared; and
- (ii) specified by Proclamation made for the purpose of this paragraph to be an enemy at war with the Commonwealth.

A Proclamation could therefore be made with respect to an enemy 'at war with the Commonwealth'.